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### **Attorneys for James Dondero**

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Attorneys for James Dondero, Nancy Dondero, Highland Capital Management Services, Inc. and **HCRE** Partners, LLC

Davor Rukavina Julian P. Vasek MUNSCH HARDT KOPF & HARR, P.C. 500 N. Akard Street, Suite 3800 Dallas, Texas 75202-2790 (214) 855-7500 telephone (214) 978-4375 facsimile Email: drukavina@munsch.com

### Attorneys for NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P.

FOR THE NORTHERN 1	DISTRICT OF TEXAS		
DALLAS DIVISION			
In re:	§ Case No. 19-34054		
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HIGHLAND CAPITAL MANAGEMENT, L.P.	§ Chapter 11		
	8		
Debtor.	8		
HIGHLAND CAPITAL MANAGEMENT, L.P.,	8		
HIGHLAND CAFIIAL MANAGEMENI, L.F.,	8		
Plaintiff,	§ Adv. Proc. No. 21-03003-sgj		
1 failtill,	§		
10	§		
vs.	§		
JAMES DONDERO, NANCY DONDERO, AND	§		
THE DUGABOY INVESTMENT TRUST,	§		
	§		
Defendants.	§		

# IN THE UNITED STATES BANKRUPTCY COURT



HIGHLAND CAPITAL MANAGEMENT, L.P.,	§ §
Plaintiff,	§ §
vs.	§ Adv. Proc. No. 21-03005-sgj
NEXPOINT ADVISORS, L.P., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	\$ \$ \$ \$
Defendants.	§ §
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§ §
Plaintiff,	§ § Adv. Proc. No. 21-03006-sgj
vs.	§ §
HIGHLAND CAPITAL MANAGEMENT SERVICES, INC., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	\$ \$ \$ \$ \$
Defendants.	\$ \$
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§ § Adv. Proc. No. 21-03007-sgj
Plaintiff, vs.	\$ \$
1 130	\$
	ş
HCRE PARTNERS, LLC (n/k/a NexPoint Real	8
Estate Partners, LLC), JAMES DONDERO,	8
NANCY DONDERO, AND THE DUGABOY	8 8
INVESTMENT TRUST,	8 8
	8
Defendants.	\$ s
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## APPENDIX IN SUPPORT OF DEFENDANTS' MOTION TO STRIKE APPENDIX IN SUPPORT OF PLAINTIFF'S REPLY MEMORANDUM OF LAW

Defendants James Dondero, NexPoint Advisors, L.P., Highland Capital Management Services, Inc., and HCRE Partners, LLC file this Appendix in Support of their Motion to Strike Appendix in Support of Plaintiff's Reply Memorandum of Law in Further Support of its Motion for Partial Summary Judgment Against the Alleged Agreement Defendants, and request the Court take judicial notice of the documents contained herein.

Exhibit	Document	Appendix Page(s)
1	Declaration of Michael Aigen, dated February 25, 2022	App. 1-4
А	Email from J. Morris to M. Aigen, dated February 24, 2022	App. 5-6

Dated: February 25, 2022

Respectfully submitted,

### /s/Deborah Deitsch-Perez

Deborah Deitsch-Perez State Bar No. 24036072 Michael P. Aigen State Bar No. 24012196 STINSON LLP 3102 Oak Lawn Avenue, Suite 777 Dallas, Texas 75219 (214) 560-2201 telephone (214) 560-2203 facsimile Email: deborah.deitschperez@stinson.com Email: michael.aigen@stinson.com ATTORNEYS FOR JAMES DONDERO, NANCY DONDERO, HIGHLAND CAPITAL MANAGEMENT SERVICES, INC. AND NEXPOINT REAL ESTATE PARTNERS, LLC

### /s/Clay M. Taylor

Clay M. Taylor State Bar No. 24033261 Bryan C. Assink State Bar No. 24089009 BONDS ELLIS EPPICH SCHAFER JONES LLP 420 Throckmorton Street, Suite 1000 Fort Worth, Texas 76102 (817) 405-6900 telephone (817) 405-6902 facsimile Email: clay.taylor@bondsellis.com Email: bryan.assink@bondsellis.com ATTORNEYS FOR JAMES DONDERO

/s/Davor Rukavina

Davor Rukavina Julian P. Vasek MUNSCH HARDT KOPF & HARR, P.C. 500 N. Akard Street, Suite 3800 Dallas, Texas 75202-2790 (214) 855-7500 telephone (214) 978-4375 facsimile Email: drukavina@munsch.com

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

# **CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that, on February 25, 2022, a true and correct copy of the foregoing document was served via the Court's CM/ECF system on counsel for Plaintiff Highland Capital Management, L.P. and on all other parties requesting or consenting to such service in this case.

/s/Deborah Deitsch-Perez Deborah Deitsch-Perez Case 21-03007-sgj Doc 174 Filed 02/25/22 Entered 02/25/22 14:27:40 Page 6 of 11

# Exhibit 1

Clay M. Taylor Bryan C. Assink BONDS ELLIS EPPICH SCHAFER JONES LLP 420 Throckmorton Street, Suite 1000 Fort Worth, Texas 76102 (817) 405-6900 telephone (817) 405-6902 facsimile Email: clay.taylor@bondsellis.com Email: bryan.assink@bondsellis.com

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Attorneys for James Dondero, Nancy Dondero, Highland Capital Management Services, Inc. and HCRE Partners, LLC

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### Attorneys for NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P.

IN THE UNITED STATES		
FOR THE NORTHERN DISTRICT OF TEXAS		
DALLAS DIVISION		
In re:	§ Case No. 19-34054	
	8	
HIGHLAND CAPITAL MANAGEMENT, L.P.	§ Chapter 11	
,	\$ I	
Debtor.	ş	
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HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§ Adv. Proc. No. 21-03003-sgj	
	§	
vs.	§	
	§	
JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	§	
	§	
THE DUGADOT INVESTMENT IKUSI,	§	
Defendants.	\$	

IN THE UNITED STATES DANKDUDTCV COUDT

HIGHLAND CAPITAL MANAGEMENT, L.P.,	\$ \$
Plaintiff,	\$ \$
vs.	§ Adv. Proc. No. 21-03005-sgj §
NEXPOINT ADVISORS, L.P., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	\$ \$ \$ \$ \$
Defendants.	\$ \$
HIGHLAND CAPITAL MANAGEMENT, L.P.,	\$ \$
Plaintiff,	§ § Adv. Proc. No. 21-03006-sgj
vs.	\$ \$
HIGHLAND CAPITAL MANAGEMENT SERVICES, INC., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	\$ \$ \$ \$
Defendants.	\$ \$
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§ § Adv. Proc. No. 21-03007-sgj
Plaintiff,	\$ \$
vs.	\$
HCRE PARTNERS, LLC (n/k/a NexPoint Real Estate Partners, LLC), JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	\$ \$ \$ \$ \$
Defendants.	\$ 8

# DECLARATION OF MICHAEL P. AIGEN IN SUPPORT OF DEFENDANTS' MOTION TO STRIKE APPENDIX IN SUPPORT OF PLAINTIFF'S <u>REPLY MEMORANDUM OF LAW</u>

Michael P. Aigen, pursuant to 28 U.S.C. § 1746(a), under penalty of perjury, declares as

follows:

1. I am a member of the law firm of Stinson LLP, counsel to Defendant James

Dondero, Highland Capital Management Services, Inc. and HCRE Partners, LLC n/k/a NexPoint

Real Estate Partners, LLC, and I submit this Declaration in support of the Defendants' Motion to

Strike Appendix in Support of Plaintiff's Reply Memorandum of Law in Further Support of its

*Motion for Partial Summary Judgment Against the Alleged Agreement Defendants*, which is being filed concurrently with this Declaration. I submit this Declaration based on my personal knowledge and the documents listed below.

2. Attached as **Exhibit A** is a true and correct copy of an email from J. Morris to M. Aigen, dated February 24, 2022.

Dated: February 25, 2022.

/s/Michael P. Aigen Michael P. Aigen

# **Exhibit** A

From:	John A. Morris <jmorris@pszjlaw.com></jmorris@pszjlaw.com>
Sent:	Thursday, February 24, 2022 10:23 AM
То:	Aigen, Michael P.
Cc:	Hayley R. Winograd; Rukavina, Davor; Deitsch-Perez, Deborah R.; Bryan Assink; Jeff
	Pomerantz; Gregory V. Demo
Subject:	RE: HCMLP/Dondero: conference on motion to strike

# **External Email – Use Caution**

No.

The reply declaration was a classic reply.

And the stipulation was already on the docket.

Thanks,

John

From: Aigen, Michael P. [mailto:michael.aigen@stinson.com]

Sent: Thursday, February 24, 2022 11:17 AM

To: John A. Morris <jmorris@pszjlaw.com>

**Cc:** Hayley R. Winograd <hwinograd@pszjlaw.com>; Rukavina, Davor <drukavina@munsch.com>; Deitsch-Perez, Deborah R. <deborah.deitschperez@stinson.com>; Bryan Assink <bryan.assink@bondsellis.com> **Subject:** HCMLP/Dondero: conference on motion to strike

John,

On February 8, 2022, the Debtor filed its Appendix in Support of Plaintiff's Reply Memorandum of Law in Further Support of its Motion for Partial Summary Judgment Against the Alleged Agreement Defendants (the "Appendix"). As you know, the Appendix contains new evidence and that is not allowed under the applicable rules. Please let me know immediately whether you will agree to withdraw your Appendix or whether we will need to file a motion to strike the Appendix.

Michael

# Michael P. Aigen

Partner

STINSON LLP

3102 Oak Lawn Avenue, Suite 777 Dallas, TX 75219 Direct: 214.560.2201 \ <u>Bio</u>

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