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

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

**UBS’S RESPONSE TO HIGHLAND CAPITAL MANAGEMENT, L.P.’S
MOTION TO WITHDRAW ITS ANSWER AND CONSENT TO
JUDGMENT FOR PERMANENT INJUNCTIVE RELIEF**

¹ The Reorganized Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.



UBS Securities LLC and UBS AG London Branch (collectively, “UBS”), plaintiffs in the above-captioned adversary proceeding (the “Adversary Proceeding”) and creditors in the above-captioned chapter 11 case (the “Bankruptcy Case”), submit this response (the “Response”) to the *Motion to Withdraw its Answer and Consent to Judgment for Permanent Injunctive Relief* (the “Motion”) filed by Highland Capital Management, L.P. (“Highland” or the “Debtor”) on June 8, 2022 (Adv. Dkt. No. 169). In support of the Response, UBS states as follows:

UBS agrees, as Highland states in the Motion, that the Court should permanently enjoin Highland from making or allowing funds under its management or control (including, but not limited to, Multi-Strat and CDO Fund) to make any payments or further transfers to Sentinel or any of its affiliates (the “Sentinel Entities”) or any transferees of the Sentinel Entities consisting of, resulting from, or relating to the Transferred Assets, and that “(a) [Highland’s] defenses are not warranted by existing law or supported by a non-frivolous argument for extending, modifying, or reversing existing law, or establishing new law, (b) after having a reasonable opportunity for further investigation and discovery, there is no evidentiary support to oppose the relief requested, and (c) certain of Highland’s prior denials in its Answer are no longer reasonably based on a lack of information.” Mot. at 2.

UBS, however, believes that the Court should modify Highland’s proposed judgment attached to the Motion as Exhibit A and submits an alternative proposed judgment attached to this Response as Exhibit 1. Specifically, UBS submits that this Court should find that UBS has satisfied the standard for a permanent injunction: “(1) success on the merits; (2) that a failure to grant the injunction will result in irreparable injury; (3) that said injury outweighs any damages that the injunction will cause the opposing party; and (4) that the injunction will not disserve the public interest.” *In re Heritage Real Est. Inv., Inc.*, No. 14-03603-NPO, 2021 WL 1395592, at

*13 (Bankr. S.D. Miss. Feb. 4, 2021) (quoting *Env't Tex. Citizen Lobby, Inc. v. ExxonMobil Corp.*, 824 F.3d 507, 533 (5th Cir. 2016)). UBS intends to submit evidence during the August 8, 2022 hearing that will support the alternative proposed judgment and permit this Court to find that the standard can be met and therefore a permanent injunction is warranted.

As a result, UBS proposes that this Court enter the proposed judgment attached to this Response as **Exhibit 1**. A redline comparison to show the differences between UBS's proposed judgment at Exhibit 1 and Highland's proposed judgment at Exhibit A to the Motion is attached to this Response as **Exhibit 2**.

CONCLUSION

WHEREFORE, UBS respectfully requests that the Court enter the judgment attached hereto as Exhibit 1 and grant such further relief as the Court deems just and proper.

Dated: July 27, 2022

Respectfully submitted,

LATHAM & WATKINS LLP

By /s/ Kathryn George

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*Counsel for UBS Securities LLC and UBS
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CERTIFICATE OF SERVICE

I, Martin Sosland, certify that *UBS's Response to Highland Capital Management, L.P.'s Motion to Withdraw its Answer and Consent to Judgment for Permanent Injunctive Relief* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: July 27, 2022

/s/ Martin Sosland
Martin Sosland

EXHIBIT 1

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,²
Debtor.

UBS SECURITIES LLC AND UBS AG LONDON
BRANCH,
Plaintiffs,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
Defendant.

§
§ Chapter 11
§
§ Case No. 19-34054-sgj11
§
§
§
§
§ Adversary Proceeding
§
§ No. 20-03020-sgj
§
§
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§
§

**ORDER AND JUDGMENT GRANTING UBS’S REQUEST FOR A PERMANENT
INJUNCTION AGAINST HIGHLAND CAPITAL MANAGEMENT, L.P.**

² The Reorganized Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

This matter having come before the Court on *Highland Capital Management, L.P.’s Motion to Withdraw its Answer and Consent to Judgment for Permanent Injunctive Relief* [Adv. Pro. Docket No. 169] (the “Motion”), filed by Highland Capital Management, L.P. (“Highland”), the reorganized debtor and defendant in the above-captioned adversary proceeding (the “Adversary Proceeding”) in the above-captioned chapter 11 case (the “Bankruptcy Case”), and this Court having considered (a) the Motion and (b) the *Declaration of James P. Seery, Jr. in Support of Highland Capital Management, L.P.’s Motion to Withdraw its Answer and Consent to Judgment for the Permanent Injunctive Relief Sought by Plaintiff* (the “Seery Declaration” and together with the Motion, “Highland’s Papers”), (c) the evidence presented at the August 8, 2022 hearing on the Motion, and (d) all prior proceedings relating to the Adversary Proceeding; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that injunctive relief is warranted under sections 105(a) and 362(a) of the Bankruptcy Code; and this Court having found that Highland’s notice of the Motion and opportunity for a hearing on the Motion were appropriate and that no other notice need be provided; and this Court having considered the evidence presented on August 8, 2022; and in consideration of that evidence, the Court having found that the legal and factual bases presented establish good cause for the relief granted herein, and that (1) such relief is necessary to avoid immediate and irreparable harm to UBS Securities LLC and UBS AG London Branch (together, “UBS”), (2) UBS will succeed on the merits of its underlying claim for injunctive relief; (3) the injury to UBS outweighs any damages that the injunction will cause Highland; and (4) such relief serves the public interest; and upon all of the proceedings had before this Court; and after

due deliberation and sufficient cause appearing therefor and for the reasons set forth in the record on this Motion, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED IN PART** as set forth herein.
2. Highland's *Answer to Complaint* [Adv. Pro. Docket No. 84] is deemed **WITHDRAWN**.
3. Subject to any further order of this Court, Highland is hereby permanently **ENJOINED AND RESTRAINED** from making or allowing funds under its control (including but not limited to Multi-Strat or CDO Fund) to make any payments or further transfers to the Sentinel Entities (or any entities known by Highland to be transferees of the Sentinel Entities) consisting of, resulting from, or relating to the Transferred Assets pending (i) a decision of a court of competent jurisdiction as to whether the Transferred Assets were fraudulently transferred to or for the benefit of Sentinel, Dondero, Ellington, and/or any of their affiliates or as part of a fraudulent scheme or (ii) an agreement between Highland and UBS as to the disposition of the Transferred Assets.
4. This Order shall remain in effect unless otherwise ordered by the Court.
5. All objections to the Motion are overruled in their entirety.
6. The Court shall retain exclusive jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order.

END OF ORDER

EXHIBIT 2

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,³

Debtor.

UBS SECURITIES LLC AND UBS AG LONDON
BRANCH,

Plaintiffs,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant.

§
§ Chapter 11
§
§ Case No. 19-34054-sgj11
§
§
§
§
§ Adversary Proceeding ~~No.~~
§
§ No. 20-03020-sgj
§
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§
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§

**ORDER AND JUDGMENT GRANTING ~~PLAINTIFFS'~~UBS'S REQUEST FOR A
PERMANENT INJUNCTION AGAINST HIGHLAND CAPITAL MANAGEMENT, L.P.**

³ The Reorganized Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Reorganized Debtor is ~~300~~100 Crescent Court, Suite ~~700~~1850, Dallas, TX 75201.

This matter having come before the Court on *Highland Capital Management, L.P.'s Motion to Withdraw its Answer and Consent to Judgment for Permanent Injunctive Relief* [Adv. Pro. Docket No. —169] (the “Motion”), filed by Highland Capital Management, L.P. (“Highland”), the reorganized debtor and defendant in the above-captioned adversary proceeding (the “Adversary Proceeding”) in the above-captioned chapter 11 case (the “Bankruptcy Case”), and this Court having considered (a) the Motion and (b) the *Declaration of James P. Seery, Jr. in Support of Highland Capital Management, L.P.'s Motion to Withdraw its Answer and Consent to Judgment for the Permanent Injunctive Relief Sought by Plaintiff* (the “Seery Declaration” and together with the Motion, “Highland’s Papers”), ~~and (e)~~(c) the evidence presented at the August 8, 2022 hearing on the Motion, and (d) all prior proceedings relating to the Adversary Proceeding; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that injunctive relief is warranted under sections 105(a) and 362(a) of the Bankruptcy Code; and this Court having found that ~~the~~ Highland’s notice of the Motion and opportunity for a hearing on the Motion were appropriate and that no other notice need be provided; and this Court having ~~determined~~considered the evidence presented on August 8, 2022; and in consideration of that evidence, the Court having found that the legal and factual bases ~~set forth in the Highland’s Papers~~presented establish good cause for the relief granted herein, and that (1) such relief is necessary to avoid immediate and irreparable harm to UBS Securities LLC and UBS AG London Branch (together, “UBS”), (2) UBS ~~is likely to~~will succeed on the merits of its underlying claim for injunctive relief; (3) the ~~balance of the equities tip in favor of UBS;~~injury to UBS outweighs

any damages that the injunction will cause Highland; and (4) such relief serves the public interest; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor and for the reasons set forth in the record on this Motion, it is

HEREBY ORDERED THAT:

1. The Motion is **GRANTED IN PART** as set forth herein.
2. Highland's *Answer to Complaint* [Adv. Pro. Docket No. 84] is deemed

WITHDRAWN.

3. Subject to any further order of this Court, Highland is hereby permanently **ENJOINED AND RESTRAINED** from making or allowing funds under its control (including but not limited to Multi-Strat or CDO Fund) to make any payments or further transfers to the Sentinel Entities (or any entities known by Highland to be transferees of the Sentinel Entities) consisting of, resulting from, or relating to the Transferred Assets pending (i) a decision of a court of competent jurisdiction as to whether the Transferred Assets were fraudulently transferred to or for the benefit of Sentinel, Dondero, Ellington, and/or any of their affiliates or as part of a fraudulent scheme or (ii) an agreement between Highland and UBS as to the disposition of the Transferred Assets.

4. This Order shall remain in effect unless otherwise ordered by the Court.
5. All objections to the Motion are overruled in their entirety.
6. The Court shall retain exclusive jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order.

END OF ORDER