

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.  
  
Reorganized Debtor.

Chapter 11

Case No. 19-34054 (SGJ)

MARC S. KIRSCHNER, AS LITIGATION  
TRUSTEE OF THE LITIGATION SUB-  
TRUST,

*Plaintiff*

Adv. Pro. No. 21-03076-sgj

**THE DONDERO DEFENDANTS’  
MOTION FOR EXPEDITED  
HEARING ON MOTION TO STAY**

v.

JAMES D. DONDERO; MARK A. OKADA;  
SCOTT ELLINGTON; ISAAC LEVENTON;  
GRANT JAMES SCOTT III; FRANK  
WATERHOUSE; STRAND ADVISORS, INC.;  
NEXPOINT ADVISORS, L.P.; HIGHLAND  
CAPITAL MANAGEMENT FUND  
ADVISORS, L.P.; DUGABOY INVESTMENT  
TRUST AND NANCY DONDERO, AS  
TRUSTEE OF DUGABOY INVESTMENT  
TRUST; GET GOOD TRUST AND GRANT  
JAMES SCOTT III, AS TRUSTEE OF GET  
GOOD TRUST; HUNTER MOUNTAIN  
INVESTMENT TRUST; MARK & PAMELA  
OKADA FAMILY TRUST – EXEMPT TRUST  
#1 AND LAWRENCE TONOMURA AS  
TRUSTEE OF MARK & PAMELA OKADA  
FAMILY TRUST – EXEMPT TRUST #1;  
MARK & PAMELA OKADA FAMILY TRUST  
– EXEMPT TRUST #2 AND LAWRENCE  
TONOMURA IN HIS CAPACITY AS  
TRUSTEE OF MARK & PAMELA OKADA  
FAMILY TRUST – EXEMPT TRUST #2; CLO  
HOLDCO, LTD.; CHARITABLE DAF  
HOLDCO, LTD.; CHARITABLE DAF FUND,  
LP.; HIGHLAND DALLAS FOUNDATION;  
RAND PE FUND I, LP, SERIES 1; MASSAND  
CAPITAL, LLC; MASSAND CAPITAL, INC.;



SAS ASSET RECOVERY, LTD.; AND CPCM,  
LLC,

*Defendants.*

**DEFENDANTS JAMES D. DONDERO, DUGABOY INVESTMENT TRUST, GET  
GOOD TRUST, AND STRAND ADVISORS, INC.'S MOTION FOR EXPEDITED  
HEARING ON MOTION TO STAY**

**I. INTRODUCTION**

Defendants James D. Dondero, Strand Advisors, Inc., Dugaboy Investment Trust, and Get Good Trust (collectively, the “Dondero Defendants”) hereby file this Motion for Expedited Hearing on their Motion to Stay, filed herewith. Good cause exists to expedite hearing on the Dondero Defendants’ Motion because the Motion raises overlapping issues with those raised in the Litigation Trustee’s Motion to Stay the Adversary Proceeding, and it is in the best interest of all parties to be heard on those issues in the same hearing. It will also conserve party and judicial resources and expedite resolution of the issues raised if both motions are heard together. For that reason, the Dondero Defendants respectfully request that the Court expedite hearing on their Motion and set it for hearing at the same time as the hearing on the Litigation Trustee’s Motion to Stay.

**II. FACTUAL BACKGROUND**

On March 24, 2023, the Litigation Trustee filed a Motion to Stay the Adversary Proceeding (the “Litigation Trustee’s Motion”), along with a Motion for Expedited Hearing on Motion to Stay the Adversary Proceeding. *See Kirschner v. Dondero, et al.*, Adv. Proc. No. 21-03076-sgj (“*Kirschner Adversary*”), Dkts. 322, 323. Thereafter, the Court granted the Litigation Trustee’s request for an expedited hearing, and set the Litigation Trustee’s Motion for hearing on Friday, March 31, 2023 at 9:30 a.m. *See id.*, Dkt. 327. The Litigation Trustee’s Motion proposes that the

Court stay this adversary proceeding for six months, until September 30, 2023, “to allow assets to be monetized pursuant to the Plan while conserving resources for all parties and third parties.” Litigation Trustee’s Motion at ¶ 15. According to the Litigation Trustee, a stay would “also promote judicial efficiency because pursuit of this litigation *may* prove unnecessary” depending on the “results of the monetization of HCMLP’s remaining assets and the satisfaction of indemnification obligations. *Id.* at ¶¶ 19-20. In response to the Litigation Trustee’s Motion, the Dondero Defendants have filed a Motion to Stay, which asks the Court to enter a broader stay order (1) pausing several proceedings and issues being litigated in the context of the HCMLP bankruptcy, (2) requiring the parties to submit their remaining disputes to mediation, and (3) mandating disclosures by the Claimant Trustee and the Debtor that will allow the parties to meaningfully discuss resolution. If what the Litigation Trustee truly aims to do is conserve judicial resources pending monetization of HCMLP’s remaining assets, then the broader relief requested by the Dondero Defendants is more suited to addressing that goal.

**III. THE LITIGATION TRUSTEE’S MOTION AND THE DONDERO DEFENDANTS’ MOTION SHOULD BE HEARD AT THE SAME TIME**

Pursuant to section 105(a) of the Bankruptcy Code, the Court “may issue any order . . . that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). Furthermore, pursuant to Bankruptcy Rule 9006, the Court may, for cause shown, reduce the notice period required prior to a hearing.

The Dondero Defendants agree with the Litigation Trustee’s position that a “prompt hearing” on any request to stay this Adversary Proceeding “is necessary and in the best interests of all parties.” Motion to Expedite Hearing on Motion to Stay Adversary Proceeding, *Kirschner Adversary*, Dkt. 323 at ¶ 11. The Dondero Defendants’ Motion is responsive to and addresses the Litigation Trustee’s Motion and the relief requested therein, such that both motions should be

heard by the Court at the same time. A simultaneous hearing will conserve party and judicial resources and ensure that overlapping issues are resolved without the need for multiple hearings.<sup>1</sup> As explained above, the Court has set the Litigation Trustee's Motion for hearing on Friday, March 31, 2023. *See* Dkt. 327. The Dondero Defendants respectfully request that their Motion to Stay also be heard at that date and time.

#### IV. CONCLUSION

For the foregoing reasons, the Dondero Defendants request that the Court grant this Motion to Expedite Hearing on Motion to Stay and hear the Motion at the same time as the Litigation Trustee's Motion, which is set for hearing on March 31, 2023.

Dated: March 29, 2022

Respectfully submitted,

**DLA PIPER LLP (US)**

*/s/ Jason M. Hopkins*

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*Attorneys for Defendants James Dondero,  
Dugaboy Investment Trust, Get Good Trust,  
and Strand Advisors, Inc.*

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<sup>1</sup> The Dondero Defendants do not anticipate that a simultaneous setting will require any additional time for oral argument than has already been allocated by the Court, but the Dondero Defendants would be willing to agree to additional time should the Court and counsel for the Litigation Trustee believe additional time is necessary.

**CERTIFICATE OF CONFERENCE**

The undersigned hereby certifies that on March 29, 2023, counsel for the Dondero Defendants corresponded with counsel for the Debtor and the Litigation Trustee regarding the relief requested in the foregoing motion. The Debtor's counsel responded that they are UNOPPOSED to the relief requested herein.

*/s/ Amy L. Ruhland*

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Amy L. Ruhland

**CERTIFICATE OF SERVICE**

The undersigned hereby certified that, on this the 29<sup>th</sup> day of March, 2023, true and correct copies of this document were electronically served by the court's ECF system on parties entitled to notice thereof, including on counsel Plaintiff.

*/s/ Jason M. Hopkins*

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Jason M. Hopkins

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Chapter 11

Case No. 19-34054 (SGJ)

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**[PROPOSED] ORDER GRANTING  
THE DONDERO DEFENDANTS'  
MOTION FOR EXPEDITED  
HEARING ON MOTION TO STAY**

GRANT JAMES SCOTT III; FRANK WATERHOUSE; STRAND ADVISORS, INC.; NEXPOINT ADVISORS, L.P.; HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.; DUGABOY INVESTMENT TRUST AND NANCY DONDERO, AS TRUSTEE OF DUGABOY INVESTMENT TRUST; GET GOOD TRUST AND GRANT JAMES SCOTT III, AS TRUSTEE OF GET GOOD TRUST; HUNTER MOUNTAIN INVESTMENT TRUST; MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1 AND LAWRENCE TONOMURA AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1; MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2 AND LAWRENCE TONOMURA IN HIS CAPACITY AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2; CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND DALLAS FOUNDATION; RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL, LLC; MASSAND CAPITAL, INC.; SAS ASSET RECOVERY, LTD.; AND CPCM, LLC,

*Defendants.*

**ORDER GRANTING THE DONDERO DEFENDANTS’ MOTION FOR EXPEDITED HEARING ON MOTION TO STAY**

Having considered the Motion for Expedited Hearing on Motion to Stay (the “Motion to Expedite”) filed by Defendants James D. Dondero, Strand Advisors, Inc., Dugaboy Investment Trust, and Get Good Trust (collectively, the “Dondero Defendants”), the Court finds and concludes (i) it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) notice of the Motion to Expedite was sufficient under the circumstances; and (c) good cause exists to grant the relief requested in the Motion to Expedite. Accordingly, **IT IS THEREFORE ORDERED**

**THAT:**

1. The Motion to Expedite is **GRANTED** as set forth herein.
2. The hearing on the Dondero Defendants' Motion to Stay is hereby scheduled to take place on **Friday, March 31, 2023 at 9:30 a.m. (Central Time)**.
3. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

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