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October 11, 2024

The Honorable Sam A. Lindsay  
United States District Court  
for the Northern District of Texas  
Earle Cabell Federal Building  
1100 Commerce Street, Room 1544  
Dallas, Texas 75242-1003

Re: *Hunter Mountain Investment Trust v. Highland Capital Management, L.P.*, Case Nos. 3:24-cv-01786-L and 3:24-cv-01787-L

Dear Judge Lindsay:

We represent Highland Capital Management, L.P. (“Highland”), appellee in the above-referenced matters, and write to alert the Court to two motions Highland filed earlier this week.

By way of background, Hunter Mountain Investment Trust (“HMIT”) commenced two separate actions arising from the Bankruptcy Court’s issuance of an order staying certain litigation (the “Order”). In one action, HMIT filed a *Motion for Leave to File an Interlocutory Appeal* in which HMIT seeks this Court’s permission to appeal the Order. Case No. 3:24-cv-01787-L, Docket No. 1-4 (the “Interlocutory Motion”). In the other action, commenced the same day, HMIT filed a *Notice of Appeal of “Order Extending Stay of Contested Matter [Docket No. 4000]” [DKT. 4104] By Right* in which HMIT purported to appeal the Order “as of right.” Case No. 3:24-cv-01786-L, Docket No. 1-1 (the “Premature Appeal”).

On July 25, 2024, this Court entered an order consolidating the matters described above, subject to any objections. *See* Case No. 3:24-cv-01786-L, Docket No. 11. Highland did not object, but on August 1, 2024, it filed a response in which it sought clarity that briefing on the Premature Appeal would be suspended pending a determination on the Interlocutory Motion. Case No. 3:24-cv-01786-L, Docket No. 12 (the “Response”).

Briefing on the Interlocutory Motion was complete on August 5, 2024. Case No. 3:24-cv-01787-L, Docket No. 19 (HMIT’s reply brief). However, neither the Court nor HMIT addressed the



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Response. Instead, on September 16, 2024, HMIT filed its opening brief in connection with the Premature Appeal. Highland’s appellee brief is due on October 16.

Seeking to avoid unnecessary litigation, on October 7, 2024, Highland filed motions to dismiss the Premature Appeal and to suspend briefing in the Premature Appeal unless the Court grants the Interlocutory Motion. Case No. 3:24-cv-01786-L, Docket Nos. 17 and 18 (the “Motions”). HMIT has opposed the relief requested in both Motions.

Highland wanted to make sure the Court was aware of the Motions and see if the Court could provide any guidance as to whether it expected the Premature Appeal to be fully briefed before a ruling is rendered on the Interlocutory Motion. In the absence of any such guidance, Highland will timely file its appellee brief on October 16.

Sincerely,

A handwritten signature in black ink, appearing to read "ZZA", written over a light blue horizontal line.

Zachery Z. Annable

cc: Deborah R. Deitsch-Perez  
John A. Morris  
Mark T. Stancil

