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VIA ECF

Lyle W. Cayce, Clerk
United States Court of Appeals
for the Fifth Circuit
Office of the Clerk
F. Edward Herbert Building
600 S. Maestri Place
New Orleans, Louisiana 70130

Re: Case No. 24-10287, *Dondero v. Jernigan* (to be argued during the week of December 5, 2024)

Dear Mr. Cayce:

Appellants appeal from an order of the District Court denying their *Petition for a Writ of Mandamus* seeking the recusal of Judge Stacey Jernigan from the Highland bankruptcy case pending in the Northern District of Texas. Appellants allege that Judge Jernigan has manifested bias against them, having “formed unfavorable opinions” of James Dondero and his affiliates “during the Acis bankruptcy.” Brief of Appellants (Document No. 34) at 5-6 (in January 2018, an involuntary bankruptcy case was commenced against Acis Capital Management, L.P., a former Highland affiliate then owned and controlled by Mr. Dondero).

We write on Highland’s behalf to ask the Court to take judicial notice of the *Report and Recommendation*, entered in the Acis bankruptcy case on October 15, 2024, Case No. 18-30264-sgj-11, Adv. Pro. No. 20-03060-sgj, Docket No. 188 (the “Report”). The Report is pertinent to the appeal because Judge Jernigan—charged by Appellants with being biased against Mr. Dondero—recommended that the District Court grant Mr. Dondero’s motion to dismiss with prejudice certain claims asserted against him. Judge Jernigan not only ruled in Mr. Dondero’s favor but did so by raising a defense (*res*





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judicata) sua sponte in an exhaustive opinion that apparently shields him from substantial personal liability. Report at 37-47. Yesterday, Chief Judge Godbey of the District Court adopted Judge Jernigan's Report and dismissed the claims against Mr. Dondero with prejudice. *Acis Capital Management, L.P. v. Dondero*, 3:24-cv-02036-N, Document No. 4.

The Report (and its adoption by the District Court) thus undercuts Appellants' contention that Judge Jernigan is biased against Mr. Dondero and his affiliates.

Respectfully submitted,

/s/ John A. Morris

John A. Morris

cc: Counsel of Record (via ECF)

JAM:is