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*Attorneys for Defendant Alvarez & Marsal
CRF Management, LLC*

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

In re:

Highland Capital Management, L.P.¹

Debtor.

Charitable DAF Fund, L.P.,

Plaintiff,

v.

Alvarez & Marsal CRF Management, LLC

Chapter 11

Case No. 19-34054 (SGJ)

Adversary No. 24-03073

¹ The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



Defendant.

DEFENDANT’S MOTION TO SEAL IN SUPPORT OF MOTION TO DISMISS

Defendant A&M files this Motion for Leave to File Under Seal pursuant to Fed. R. Bankr. P. 9018, LBR 9077, and Sections 101, 105, and 107 of the Bankruptcy Code, and in support of the same would respectfully show the Court as follows:

DISCUSSION

In August 2022, Plaintiff Charitable DAF initiated this suit in Texas state court alleging various claims against A&M based on withheld partnership distributions. DAF has since amended its petition twice, most recently adding new breach of fiduciary duty allegations relating to A&M’s handling of certain bankruptcy claims on behalf of the Crusader Funds against debtor Highland Capital.

Contemporaneous with this motion, A&M filed a motion to dismiss DAF’s new claims on the grounds that (i) they are derivative claims belonging to Highland Crusader Fund II, Ltd., which DAF lacks standing to pursue, and (ii) they fail to state a claim for breach of fiduciary duty in light of A&M’s broad discretion to manage the assets and liabilities of the Crusader Funds.

As discussed in its motion to dismiss, A&M’s duties and responsibilities as investment manager of the Crusader Funds are set forth in an Investment Management Agreement. The terms of that agreement are confidential and contain private financial information concerning the Crusader Funds and A&M. Those terms, if disclosed, could be damaging to A&M and the Crusader Funds and its investors.

Accordingly, A&M respectfully requests leave to submit the Investment Management

Agreement (Exhibit 7) under seal. Although papers on file in a case under the Bankruptcy Code are generally “public records,” the public’s right to access these records is not absolute and gives way when the records contain confidential or commercially sensitive information. *See* 11 U.S.C. § 107(a); *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597-98 (1978). And this court is well within its discretion to seal records such as this. *See Nixon*, 435 U.S. at 597-98; F. R. Bankr. P. 9018 (providing that “[o]n motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information”); L.B.R. 9077-1 (authorizing parties to file documents under seal “by permission” of the Court).

CONCLUSION

A&M respectfully requests that the Court enter the attached Proposed Order granting its motion to seal.

Dated: November 15, 2024

Respectfully submitted,

/s/ John T. Cox III

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CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2024, the foregoing document was filed with the Court's CM/ECF electronic filing system, providing notice to all counsel of record.

/s/ Patrick A. Vickery
Patrick A. Vickery

*Attorney for Defendant Alvarez & Marsal
CRF Management, LLC*

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**PROPOSED ORDER GRANTING DEFENDANT’S MOTION TO SEAL IN SUPPORT
OF MOTION TO DISMISS**

Before the Court is Defendant Alvarez & Marsal CRF Management, LLC (“A&M”) Motion to Seal (“Motion”). The Court, having considered the Motion, the Response, and the arguments of counsel, if any, finds that the Motion should be **GRANTED** in its entirety.

It is therefore **ORDERED**, that Defendant’s Exhibit 7 shall be filed under seal.

End of Order

Dated: November 15, 2024

Respectfully submitted,

By: /s/ John T. Cox III

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