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Lyle W. Cayce
Clerk of Court
United States Court of Appeals for the Fifth Circuit
F. Edward Hebert Building
600 South Maestri Place
New Orleans, Louisiana 70130-3408

Re: *Dondero v. Jernigan*, No. 24-10287

Dear Mr. Cayce:

Highland claims that a recent ruling from the Bankruptcy Judge “cannot be reconciled with [the] contention that Judge Jernigan is biased against Dondero.” ECF 132 at 1.

First, Highland ignores the relevant legal question: Whether a judge or judicial panel whose impartiality is not questioned must undertake a *non-deferential* review of the refusal to recuse. That did not happen, as the refusal to recuse was reviewed for an abuse of discretion, contrary to the decisions of other circuits.

Second, Judge Jernigan’s extrajudicial conduct triggers mandatory recusal under 28 U.S.C. § 455(a) because her “impartiality might be reasonably questioned.” Judge Jernigan wrote books that pit a sitting bankruptcy judge (who is clearly Judge Jernigan) against an antagonist hedge-fund owner (who is clearly Mr. Dondero). These books are available for the public to read and then to question the judiciary’s impartiality. *See, e.g.*, <https://www.amazon.com/Hedging-Death-Stacey-Jernigan/dp/1633635813>. The cited development does nothing to ameliorate that problem.

Third, with respect to the Bankruptcy Judge’s bias internal to this case, the Appellee is missing the forest for the trees. As of yesterday, there are 4,202 docket entries and hundreds of orders in the underlying case. *See* Docket for Case No. 19-34054-sgj11 (N.D. Bankr.). The two recent orders identified by Highland concern what started as a \$1.2 million employment dispute with a former portfolio manager. He achieved an \$8 million arbitration award an entity with no assets. But the Bankruptcy Judge improperly seized \$15 million from innocent third party investors to satisfy the award and legal fees. The former employee then came back against the Highland bankruptcy estate for his second bite at the apple, and the Bankruptcy Judge granted him another \$27 million in relief. At issue in the cited orders was a brazen



effort at a third bite, seeking *another* \$75 million against Mr. Dondero, and the Bankruptcy Judge held that *res judicata* meant dinner was finally over. But, make no mistake, the Bankruptcy Judge already had turned this employment claim into the richest in legal history. And it is likely no coincidence that these orders came only after further scrutiny of her failure to recuse.

Respectfully submitted.

A handwritten signature in black ink that reads "Jonathan F. Mitchell". The signature is written in a cursive, slightly slanted style. The first letter "J" is large and has a long horizontal stroke that extends to the left. The signature is positioned above a horizontal line.

JONATHAN F. MITCHELL

Mitchell Law PLLC

Counsel for Plaintiffs-Appellants

cc: All counsel of record (via ECF)