

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

HIGHLAND CAPITAL MANAGEMENT LP	§	CASE NO. 3:21-cv-00261-L
	§	
DEBTOR	§	Appeal
	§	
	§	
THE DUGABOY INVESTMENT TRUST AND GET GOOD TRUST	§	
	§	
APPELLANTS	§	
	§	
V.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT LP	§	
	§	
APPELLEE	§	
	§	

MOTION FOR AUTHORITY TO ACCEPT  
DOCUMENTS UNDER SEAL

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TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, The Dugaboy Investment Trust and Get Good Trust (the “*Appellants*”) in the above referenced appeal from the bankruptcy case, *In re Highland Capital Management LP*, chapter 11, case no. 19-34054, United States Bankruptcy Court Northern District of Texas, Dallas Division (“*Bankruptcy Case*”), and file this *Motion for Authority to Accept Documents Under Seal* (the “*Motion*”), and in support respectfully aver as follows:

**SUMMARY OF THE PROCEEDINGS**

1. The Bankruptcy Case was filed by Highland Capital Management, LP (the “*Debtor*”) on October 16, 2019. To date, the Debtor continues to manage its estate as debtor in possession.



2. Pursuant to Order dated January 21, 2020, the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, (the “*Bankruptcy Court*”), docketed the *Agreed Protective Order* (the “*Protective Order*”) [Dkt. # 382]. See Attached *Exhibit A*. The Documents Under Seal are part of the Bankruptcy Case and are sealed subject to the Protective Order.

3. On February 1, 2021, the Appellants filed the *Notice of Appeal* in the Bankruptcy Case. On February 5, 2021, the Clerk of the Bankruptcy Court transmitted the Notice of Appeal to this Court.

4. On February 10, 2021, the Appellants filed the *Amended Designation of Record Pursuant to Fed. R. Bankr. P. 8009* in the Bankruptcy Case. See Attached *Exhibit B*. Included in the designation of the record are the following records that are confidential and subject to the Protection Order (the “*Documents Under Seal*”):

DATE	DKT. #	DESCRIPTION
01/08/2021	1708	<b>SEALED document regarding: Exhibit A to CLO Holdco, Ltd.'s Objection to Harbourvest Settlement [Docket No. 1707] Members Agreement Relating to the Company dated November 15, 2017 by and between each of the members of HCLOF, including Harbourvest, the Debtor, and CLO Holdco - Confidential [Confidential Subject to Agreed Protective Order See Docket No. 382] per court order filed by Creditor CLO Holdco, Ltd.</b>
01/11/2021	1717	<b>SEALED document regarding: Exhibit 4, Members Agreement Relating to the Company dated November 15, 2017 by and between each of the members of HCLOF, including Harbourvest, the Debtor, and CLO Holdco [Confidential Subject to Agreed Protective Order] per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s)<u>382</u> Order on motion for protective order)</b>
01/14/2021	1738	<b>SEALED document regarding: Exhibit A--Members Agreement per court order filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1737</u> Order on motion to seal)</b>
01/14/2021	1739	<b>SEALED document regarding: Exhibit B--Articles of Incorporation per court order filed by Debtor Highland Capital</b>

		Management, L.P. (RE: related document(s) <u>1737</u> Order on motion to seal)
01/14/2021	1740	<b>SEALED document regarding: Exhibit C--Offering Memorandum per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1737</u> Order on motion to seal)

### RELIEF REQUESTED

5. The Appellants, as the designating party, are submitting this Motion under Federal Rule of Bankruptcy Procedure 8009(f) seeking an order directing the Clerk of the Bankruptcy Court to transmit the Documents Under Seal.

6. Pursuant to Federal Rule of Bankruptcy Procedure 8009(f):

**Sealed Documents.** A document placed under seal by the bankruptcy court may be designated as part of the record on appeal. In doing so, a party must identify it without revealing confidential or secret information, but the bankruptcy clerk must not transmit it to the clerk of the court where the appeal is pending as part of the record. Instead, a party must file a motion with the court where the appeal is pending to accept the document under seal. If the motion is granted, the movant must notify the bankruptcy court of the ruling, and the bankruptcy clerk must promptly transmit the sealed document to the clerk of the court where the appeal is pending.

7. The Appellants state that they complied with the requirements of Rule 8009(f). The Documents Under Seal: (i) were placed under seal by the Bankruptcy Court pursuant to the Protective Order; and (ii) the Documents Under Seal were identified in the designation of the record without revealing confidential information. Therefore, the Appellants are seeking an order allowing this Court to accept the Documents Under Seal and directing the Clerk of the Bankruptcy Court to transmit the Documents Under Seal after proper notification by the Appellants of a ruling providing for the transmittal. To facilitate the transmittal, the Appellants have delivered to the Clerk of the Bankruptcy Court the Documents Under Seal in sealed envelopes, marked with the case number and a description of the document inside.

WHEREFORE PREMISES CONSIDERED, the Appellants respectfully request that this Court, under Rule 8009(f), enter an order allowing the Clerk of the Bankruptcy Court to transmit and this Court to accept the Documents Under Seal as designated by the Appellants, and for any other relief that is just.

Respectfully submitted,

/s/ Douglas S. Draper  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on March 19, 2021, I caused to be electronically filed the foregoing document with the clerk of court for the United States District Court, Northern District of Texas Dallas Division, using the electronic case filing system. The electronic case filing system served upon those parties receiving the court's ECF-email notification, on this the 19<sup>th</sup> day of March 2021.

/s/ Douglas S. Draper