

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

In re: §
§
HIGHLAND CAPITAL MANAGEMENT, § Bankruptcy Case No. 19-34054
L.P., §
Debtor. §

THE DUGABOY INVESTMENT TRUST §
AND GET GOOD TRUST §
Appellants, §
v. § Civ. Act. No. 3:21-cv-00550-L
HIGHLAND CAPITAL MANAGEMENT, §
L.P., §
Appellee. §

MOTION FOR STAY PENDING APPEAL

TO THE HONORABLE JUDGE SAM A. LINDSAY, U.S. DISTRICT JUDGE:

NOW COMES the Appellants, The Dugaboy Investment Trust and Get Good Trust (the “Movants”), in the above styled and numbered appeal from the bankruptcy case (the “Bankruptcy Case”) captioned, *In re: Highland Capital Management, L.P.*, case number 19-34054, as filed by Highland Capital Management, L.P. (the “Debtor”), and hereby file this *Motion for Stay Pending Appeal* (the “Motion”). In support of the Motion, the Movants, respectfully aver as follows:

Pursuant to this Motion and Fed. R. Bankr. P. 8007, the Movants request that the Court issue a stay of that certain *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Bankr. Dkt.



No. 1943] (the “Confirmation Order”¹), pending the outcome of this appeal through the Fifth Circuit. Contemporaneously herewith, the Movants are filing their *Brief in Support of Motion for Stay Pending Appeal* (the “Brief”). Such a stay is justified for the reasons set forth in the Brief, all of which is incorporated herein by reference.

Notices of Appeal from the Confirmation Order have been filed by the Movants (DKT 1972 and 2014), Highland Capital Management Fund Advisors L.P. and NexPoint Advisors L.P (“Advisors”) (DKT 1957), Highland Income Fund, NexPoint Strategic Opportunities Fund Highland Global Fund and NexPoint Capital, Inc (“Funds”) (DKT 1966) and James Dondero (DKT 1970). The appeal of the Confirmation Order filed by Funds and Advisors has been allotted to Judge David C. Godbey². The appeal of the Confirmation Order filed by Movants and Dondero have been allotted to this Court³.

Motions for Stay of the Confirmation Order have been filed by Funds and Advisors (DKTS 1967 and 1955) Movants and Dondero filed joinders to the Motions to Stay the Confirmation Order (DKTS 1971 and 1973).

The Bankruptcy Court conducted a hearing on March 19, 2021; and the Bankruptcy Court denied the Motions for Stay Pending Appeal by order entered on March 23, 2021 (DKT 2084 and 2095).

A Motion for Stay Pending Appeal has been filed by Advisors in this Court. (See USDC-NDTX Case No. 3:21-cv-00538-N).

¹ Appx. 1.

² Highland Capital Management Fund Advisors L.P. and NexPoint Advisors L.P (“Advisors”) – USDC NDTX Case No. 3:21-cv-00538-N

Highland Income Fund, NexPoint Strategic Opportunities Fund Highland Global Fund and NexPoint Capital, Inc (“Funds”) – USDC NDTX Case No. 3:21-cv-00539-N.

³ James Dondero USDC NDTX Case No. 3:21-cv-00546-L.

The Debtor, Funds Advisors, Movants and Dondero request for a direct appeal to the 5th Circuit of the Confirmation Order was granted by *Order Certifying Appeals of the Confirmation Order for Direct Appeal to the United States Court of Appeals for the Fifth Circuit* (DKT 2034). For the reasons set forth in the Brief filed by the Movant in Support of this Motion, Movant requests that this Court issue a Stay Pending Appeal of the Confirmation Order.

WHEREFORE, PREMISES CONSIDERED, the Movants request that the Court enter an Order:

1. Staying the effectiveness of the Confirmation Order pending the conclusion of the appeal thereof through the Fifth Circuit; and
2. Granting such other relief as is just and proper.

RESPECTFULLY SUBMITTED this the 6th day of April 2021.

/s/ Douglas S. Draper _____
Douglas S. Draper, (*pro hac vice admittance requested*)
Heller, Draper & Horn, L.L.C.
650 Poydras Street, Suite 2500
New Orleans, LA 70130
Phone: 504-299-3300/Fax: 504-299-3399
e-mail: ddraper@hellerdraper.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this the 6th day of April, 2021, true and correct copies of this document, with any exhibits attached thereto, were served on the recipients listed below via email, and correct copies of this document, with any exhibits attached thereto, were served on the recipients listed below via first class U.S. mail, postage prepaid:

Jeffrey N Pomerantz
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd
13th Floor
Los Angeles, CA 90067
Email: jpomerantz@pszjlaw.com

John A Morris
Pachulski Stang Ziehl & Jones LLP
780 Third Avenue, 34th Floor
New York, NY 10017-2024
Email: jmorris@pszjlaw.com

Zachery Z. Annable
Hayward PLLC
10501 N. Central Expressway
Suite 106
Dallas, TX 75231
Email: zannable@haywardfirm.com

/s/ Douglas S. Draper
Douglas S. Draper