



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 22, 2021

United States Bankruptcy Judge

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

In re: § Case No. 19-34054
§
HIGHLAND CAPITAL MANAGEMENT, L.P. § Chapter 11
§
Debtor. §

HIGHLAND CAPITAL MANAGEMENT, L.P., §
§
Plaintiff. §

v. §
§
JAMES D. DONDERO, § Adversary No. 20-03190
§
Defendant. §

**STIPULATION AND AGREED ORDER RESOLVING DEFENDANT'S
EMERGENCY MOTION TO STAY PENDING APPEAL AND FOR
APPROVAL OF SUPERSEDEAS BOND OR OTHER SECURITY**

[Relates to Docket No. 196]

STIPULATION AND AGREED ORDER RESOLVING DEFENDANT'S
EMERGENCY MOTION TO STAY PENDING APPEAL AND FOR
APPROVAL OF SUPERSEDEAS BOND OR OTHER SECURITY



This stipulation and agreed order (the “Stipulation and Order”) is entered into between Plaintiff Highland Capital Management, L.P. (the “Debtor”) and Defendant James Dondero (“Dondero”). The Debtor and Dondero are collectively referred to herein as the “Parties.”

RECITALS

WHEREAS, on March 22 and 24, 2021, this Court conducted a hearing on *Plaintiff’s Motion for an Order Requiring Mr. James Dondero to Show Cause Why He Should Not Be Held in Civil Contempt for Violating the TRO* (the “Contempt Motion”). At the conclusion of the hearing on March 24, 2021, the Court took the matter under advisement.

WHEREAS, on June 7, 2021, this Court entered its *Memorandum Opinion and Order Granting In Part Plaintiff’s Motion to Hold James Dondero in Civil Contempt of Court for Alleged Violation of TRO* [Docket Nos. 190 and 191] (the “Contempt Order”). Among other things, the Contempt Order requires Dondero to pay the Debtor \$450,000 by June 22, 2021. The order also provides that a “sanction of \$100,000” will be added by the Court for “each level of rehearing, appeal, or petition for certiorari that Mr. Dondero may choose to take” to the extent such appellate remedy is unsuccessful.

WHEREAS, on June 15, 2021, Dondero filed a Notice of Appeal of the Contempt Order. *See* Docket No. 195 (the “Current Appeal”).

WHEREAS, on June 15, 2021, Dondero filed *Defendant’s Emergency Motion to Stay Pending Appeal and for Approval of Supersedeas Bond or Other Security* [Docket No. 196] (the “Motion to Stay”) requesting that this Court stay the enforcement of the Contempt Order pending appeal through the posting of a cash security with the Court in the amount of \$550,000.

WHEREAS, since the filing of the Motion to Stay, the Parties have conferred regarding the relief requested in the Motion to Stay and desire to resolve the Motion to Stay on the terms set forth in this stipulation.

STIPULATION

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, AND SUBJECT TO THE BANKRUPTCY COURT’S APPROVAL, THE PARTIES HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. Subject to the terms and conditions herein, the Motion to Stay is **GRANTED**.
2. The enforcement of the Contempt Order is hereby **STAYED** on and after June 21, 2021 until the earlier to occur of (a) the Contempt Order becoming a final, non-appealable order, or (b) the Contempt Order being reversed or vacated by pursuant to a final, non-appealable order.
3. Within twenty-four (24) hours of the Bankruptcy Court’s entry of an order approving this Stipulation and Order, Dondero shall deposit \$600,000 in cash into the Court Registry System, administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045 (the “Court Registry”).
4. Should Dondero choose to take further appeals, Dondero shall thereafter post an additional \$100,000 in cash simultaneously with the filing of each further appeal beyond the Current Appeal (*i.e.*, a direct or indirect appeal to the Fifth Circuit Court of Appeals, a direct or indirect appeal to the Fifth Circuit *en banc*, and a petition for certiorari to the United States Supreme Court).
5. The deposit of the foregoing amounts into the Court Registry will be done in each case in accordance with General Order 2016-03, Order Regarding Deposit and Investment of Registry Funds, entered by the United States Bankruptcy Court of the Northern District of Texas

on November 17, 2016 (the “General Order”). For the avoidance of doubt, this Order shall constitute the Court’s express order authorizing the deposit or transfer of funds into the Court Registry as required by the terms of the General Order, and the Clerk of Court shall accept this Order as the requisite order of the Court permitting the deposit or transfer of funds into the Court Registry.

6. The Parties reserve their respective rights concerning the precise amount due to the Debtor if and when the Contempt Order becomes a non-appealable, final order.

7. The Bankruptcy Court retains exclusive jurisdiction to interpret and enforce this Stipulation and Order.

IT IS SO STIPULATED.

Dated: June 21, 2021

CONSENTED AND AGREED TO BY:

/s/ John A. Morris

Jeffrey N. Pomerantz (CA Bar No.143717)

(*pro hac vice*)

Ira D. Kharasch (CA Bar No. 109084)

(*pro hac vice*)

John A. Morris (NY Bar No. 266326)

(*pro hac vice*)

Gregory V. Demo (NY Bar No. 5371992)

(*pro hac vice*)

PACHULSKI STANG ZIEHL & JONES LLP

10100 Santa Monica Blvd., 13th Floor

Los Angeles, CA 90067

Telephone: (310) 277-6910

Email:jpomerantz@pszjlaw.com

ikharasch@pszjlaw.com

jmorris@pszjlaw.com

gdemo@pszjlaw.com

/s/ Bryan C. Assink

John T. Wilson IV

State Bar I.D. No. 24033344

Clay M. Taylor

State Bar I.D. No. 24033261

Bryan C. Assink

State Bar I.D. No. 24089009

Bonds Ellis Eppich Schafer Jones LLP

420 Throckmorton Street, Suite 1000

Fort Worth, Texas 76102

(817) 405-6900 telephone

(817) 405-6902 facsimile

Email: john.wilson@bondsellis.com

Email: clay.taylor@bondsellis.com

Email: bryan.assink@bondsellis.com

**ATTORNEYS FOR DEFENDANT JAMES
DONDERO**

and

Melissa S. Hayward (TX Bar No. 24044908)

Zachery Z. Annable (TX Bar No. 24053075)

HAYWARD & ASSOCIATES PLLC

10501 N. Central Expy, Ste. 106

Dallas, Texas 75231

Telephone: (972) 755-7100

Email:MHayward@HaywardFirm.com

ZAnnable@HaywardFirm.com

*Counsel for Plaintiff Highland Capital
Management, L.P.*

United States Bankruptcy Court
Northern District of Texas

Highland Capital Management, L.P.,
Plaintiff
Dondero,
Defendant

Adv. Proc. No. 20-03190-sgj

CERTIFICATE OF NOTICE

District/off: 0539-3

User: mmathews

Page 1 of 2

Date Rcvd: Jun 22, 2021

Form ID: pdf023

Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol Definition

+ Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jun 24, 2021:

Recip ID	Recipient Name and Address
ust	+ Cheryl Wilcoxson, US Trustee, 1100 Commerce St., Ste. 976, Dallas, TX 75242-0996

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+ Email/Text: ustpreion06.ty.ecf@usdoj.gov	Jun 22 2021 20:56:00	US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231
ust	+ Email/Text: ustpreion07.hu.ecf@usdoj.gov	Jun 22 2021 20:56:00	US Trustee, Office of the US Trustee, 515 Rusk Ave, Ste 3516, Houston, TX 77002-2604
ust	+ Email/Text: ustpreion06.da.ecf@usdoj.gov	Jun 22 2021 20:56:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996

TOTAL: 3

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust		Sandra Nixon, U.S. Trustee
ust		mario zavala
ust	*+	US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231

TOTAL: 2 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jun 24, 2021

Signature: /s/Joseph Speetjens

District/off: 0539-3

User: mmathews

Page 2 of 2

Date Rcvd: Jun 22, 2021

Form ID: pdf023

Total Noticed: 4

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on June 22, 2021 at the address(es) listed below:

Name	Email Address
Bryan C. Assink	on behalf of Defendant James D. Dondero bryan.assink@bondsellis.com
John Y. Bonds, III	on behalf of Defendant James D. Dondero john@bondsellis.com
Juliana Hoffman	on behalf of Creditor Committee Official Committee of Unsecured Creditors jhoffman@sidley.com txefilingnotice@sidley.com;julianna-hoffman-8287@ecf.pacerpro.com
Matthew A. Clemente	on behalf of Creditor Committee Official Committee of Unsecured Creditors mclemente@sidley.com matthew-clemente-8764@ecf.pacerpro.com;efilingnotice@sidley.com;ebromagen@sidley.com;alyssa.russell@sidley.com;dtwomey@sidley.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Paige Holden Montgomery	on behalf of Creditor Committee Official Committee of Unsecured Creditors pmontgomery@sidley.com txefilingnotice@sidley.com;paige-montgomery-7756@ecf.pacerpro.com;crognes@sidley.com;ebromagen@sidley.com;efilingnotice@sidley.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com

TOTAL: 7