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ATTORNEYS FOR APPELLANT JAMES DONDERO

**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.** §

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**HIGHLAND CAPITAL MANAGEMENT, L.P.,** §  
§  
**Plaintiff.** §  
§  
v. §  
§ **Adversary No. 20-03190**  
§  
**JAMES D. DONDERO,** §  
§  
**Defendant.** §

**APPELLANT’S AMENDED DESIGNATION OF ITEMS TO  
BE INCLUDED IN THE RECORD ON APPEAL AND  
STATEMENT OF ISSUES TO BE PRESENTED**

Pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Appellant James Dondero (“Appellant”) in this appeal as noticed by the *Notice of Appeal* [Adv. Dkt. 195] filed by Appellant on June 15, 2021, files this *Appellant’s Amended Designation of Items to be Included in the Record on Appeal and Statement of Issues to be Presented* in the



above-captioned case and requests that the Clerk prepare and forward the items listed herein to the District Court for inclusion in the record in connection with this appeal.

**DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

1. *Notice of Appeal* [Adv. Dkt. 195] filed by Appellant;
2. *Memorandum Opinion and Order Granting In Part Plaintiff’s Motion to Hold James Dondero in Civil Contempt of Court for Alleged Violation of TRO* [Adv. Dkt. 191];
3. Docket entries kept by the bankruptcy clerk in case no. 19-34054;
4. All docket entries and filings kept by the bankruptcy clerk in adversary

proceeding number 20-03190; and

5. Each of the additional documents and items designated below:

<b>Designation No.</b>	<b>Docket No.</b>	<b>Date</b>	<b>Description</b>
<b>Documents filed in Main Bankruptcy Case- Case No. 19-34054</b>			
1.	Bankr. Dkt. 1472	11/24/20	Debtor’s Fifth Amended Plan of Reorganization
2.	Bankr. Dkt. 1473	11/24/20	Disclosure Statement for Fifth Amended Plan of Reorganization
3.	Bankr. Dkt. 1476	11/24/20	Order Approving Disclosure Statement
4.	Bankr. Dkt. 1528	12/8/20	Motion for Order Imposing Temporary Restrictions on Debtor’s Ability, as Portfolio Manager, to Initiate Sales by Non-Debtor CLO Vehicles
5.	Bankr. Dkt. 1578	12/15/20	Debtor’s Objection to Motion for Order Imposing Temporary Restrictions on Debtor’s Ability, as Portfolio Manager, to Initiate Sales by Non-Debtor CLO Vehicles
6.	Bankr. Dkt. 1605	12/18/20	Order Denying Motion for Order Imposing Temporary Restrictions on Debtor’s Ability, as Portfolio Manager, to Initiate Sales by Non-Debtor CLO Vehicles
7.	Bankr. Dkt. 1808	1/22/21	Debtor’s Fifth Amended Plan of Reorganization (as modified)
8.	Bankr. Dkt. 1809	1/22/21	Redline of Fifth Amended Plan of Reorganization (as modified)
9.	Bankr. Dkt. 1943	2/22/21	Order Confirming Fifth Amended Plan of Reorganization

<b>Documents filed in Adversary Proceeding – Adv. Proc. No. 20-03190</b>			
10.	Adv. Dkt. 1	12/7/20	Debtor’s Complaint for Injunctive Relief
11.	Adv. Dkt. 2	12/7/20	Debtor’s Motion for Preliminary Injunction
12.	Adv. Dkt. 3	12/7/20	Brief in Support of Debtor’s Motion for Preliminary Injunction
13.	Adv. Dkt. 6	12/7/20	Debtor’s Motion for Temporary Restraining Order
14.	Adv. Dkt. 7	12/7/20	Brief in Support of Debtor’s Motion for Temporary Restraining Order
15.	Adv. Dkt. 10	12/10/20	Order Granting Debtor’s Motion for Temporary Restraining Order
16.	Adv. Dkt. 32	12/28/20	James Dondero’s Motion for Protective Order
17.	Adv. Dkt. 33	12/28/20	Motion for Expedited Hearing on Motion for Protective Order
18.	Adv. Dkt. 34	12/28/20	Debtor’s Objection to Motion for Protective Order
19.	Adv. Dkt. 38	12/29/20	Order Resolving Motion for Protective Order
20.	Adv. Dkt. 45	1/6/21	Debtor’s Witness and Exhibit List for January 8, 2021 hearing
21.	Adv. Dkt. 48	1/07/21	Debtor’s Motion for Contempt against James Dondero
22.	Adv. Dkt. 49	1/07/21	Brief in Support of Debtor’s Motion for Contempt
23.	Adv. Dkt. 51	1/07/21	Debtor’s Motion for Expedited Hearing on Motion for Contempt
24.	Adv. Dkt. 52	1/07/21	James Dondero’s Objection to Debtor’s Motion for a Preliminary Injunction
25.	Adv. Dkt. 59	1/12/21	Order Granting Debtor’s Motion for Preliminary Injunction
26.	Adv. Dkt. 60	1/12/21	James Dondero’s Notice of Appeal of Preliminary Injunction
27.	Adv. Dkt. 63	1/13/21	Amended Notice of Appeal
28.	Adv. Dkt. 64	1/13/21	James Dondero’s Motion for Leave to Appeal
29.	Adv. Dkt. 71	1/20/21	Notice of Docketing of Appeal
30.	Adv. Dkt. 73	1/20/21	Notice of Transmittal of Appeal
31.	Adv. Dkt. 75	1/27/21	Emergency Motion to Continue Contempt Hearing
32.	Adv. Dkt. 77	1/29/21	Debtor’s Objection to Motion to Continue
33.	Adv. Dkt. 80	2/1/21	Witness and Exhibit List filed by Debtor
34.	Adv. Dkt. 80-1	2/1/21	Debtor’s Amended Witness and Exhibit List With Respect to Evidentiary Hearing to be Held on January 8, 2021 [Docket No. 46]
35.	Adv. Dkt. 80-2	2/1/21	Declaration of Mr. James P. Seery, Jr. in Support of the Debtor’s Motion for a Temporary Restraining Order Against Mr. James Dondero [Docket No. 46-1]

36.	Adv. Dkt. 80-3	2/1/21	Letter from NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P to James Seery dated October 16, 2020 [Dondero Deposition Exhibit 1; Docket No. 46-2]
37.	Adv. Dkt. 80-4	2/1/21	Letter from NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P to James Seery dated November 24, 2020 [Dondero Deposition Exhibit 2; Docket No. 46-3]
38.	Adv. Dkt. 80-5	2/1/21	Email string dated between November 24, 2020 and November 27, 2020 re SKY equity [Dondero Deposition Exhibit 3; Docket No. 46-4]
39.	Adv. Dkt. 80-6	2/1/21	James Dondero text messages dated November 24, 2020 [Dondero Deposition Exhibit 4; Docket No. 46-5]
40.	Adv. Dkt. 80-7	2/1/21	Debtor's First Request for the Production of Documents Directed to James Dondero [Dondero Deposition Exhibit 5; Docket No. 46-6]
41.	Adv. Dkt. 80-8	2/1/21	Text messages between James Dondero and Jason Rothstein (Dondero 000022; Dondero Deposition Exhibit 6; Docket No. 46-7]
42.	Adv. Dkt. 80-9	2/1/21	Text messages between James Dondero and Tara Loiben (Dondero 000013; Dondero Deposition Exhibit 7; Docket No. 46-8]
43.	Adv. Dkt. 80-10	2/1/21	Order Resolving James Dondero's Emergency Motion for a Protective Order [Docket No. 46-9]
44.	Adv. Dkt. 80-11	2/1/21	Order Granting Debtor's Motion for a Temporary Restraining Order Against James Dondero [Dondero Deposition Exhibit 9; Leventon Deposition Exhibit 1; Ellington Deposition Exhibit 1; Docket No. 46-10]
45.	Adv. Dkt. 80-12	2/1/21	Letter from Pachulski Stang Ziehl & Jones LLP to D. Michael Lynn dated December 23, 2020 [Dondero Deposition Exhibit 10; Docket No. 46-11]
46.	Adv. Dkt. 80-13	2/1/21	Email string dated December 18, 2020 re Jefferies recap [Dondero Deposition Exhibit 11; Docket No. 46-12]
47.	Adv. Dkt. 80-14	2/1/21	Response to K&L Gates LLP dated December 22, 2020 [Dondero Deposition Exhibit 12; Docket No. 46-13]
48.	Adv. Dkt. 80-15	2/1/21	Response to K&L Gates LLP dated December 23, 2020 [Dondero Deposition Exhibit 13; Docket No. 46-14]
49.	Adv. Dkt. 80-16	2/1/21	Email string dated December 4, 2020 re Multi Strat summary balance sheet as of October 31, 2020 [Docket No. 46-15]

50.	Adv. Dkt. 80-17	2/1/21	Email string dated December 12, 2020 re possible deal [Dondero Deposition Exhibit 15; Docket No. 46-16]
51.	Adv. Dkt. 80-18	2/1/21	Email string dated December 16, 2020 re list for joint meeting [Dondero Deposition Exhibit 16; Docket No. 46-17; Bates Nos. HCMLP 000487-000488]
52.	Adv. Dkt. 80-19	2/1/21	Text messages between James Dondero and Melissa Schroth (Dondero 000014; Dondero Deposition Exhibit 17; Docket No. 46-18]
53.	Adv. Dkt. 80-20	2/1/21	Text messages between James Dondero and Isaac Leventon (Dondero 000043; Dondero Deposition Exhibit 18; Leventon Deposition 9; Docket No. 46-19]
54.	Adv. Dkt. 80-21	2/1/21	Email string dated December 24, 2020 re HarbourVest settlement motion [Docket No. 46-20]
55.	Adv. Dkt. 80-22	2/1/21	Letter from Bonds Ellis to J. Pomerantz dated December 29, 2020 [Docket No. 46-21]
56.	Adv. Dkt. 80-23	2/1/21	Email string dated between December 7, 2020 and December 8, 2020 re call scheduled by Scott Ellington [Docket No. 46-22]
57.	Adv. Dkt. 80-24	2/1/21	Email string dated December 15, 2020 re The Dugaboy Investment Trust and Get Good Trust Common Interest Agreement [Leventon Deposition Exhibit 8; Docket No. 46-23]
58.	Adv. Dkt. 80-25	2/1/21	Letter from K&L Gates to J. Pomerantz dated December 31, 2020 [Docket No. 46-24]
59.	Adv. Dkt. 80-26	2/1/21	Email string dated December 23, 2020 re Dondero call [Docket No. 46-25]
60.	Adv. Dkt. 80-27	2/1/21	Letter from Pachulski Stang Ziehl & Jones LLP to D. Michael Lynn dated December 23, 2020 [Dondero Deposition Exhibit 10]
61.	Adv. Dkt. 80-28	2/1/21	Declaration of John A. Morris in Support of the Debtor'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 [Docket No. 50]
62.	Adv. Dkt. 80-29	2/1/21	The Official Committee of Unsecured Creditors' Expedited Requests for Production of Documents to Highland
63.	Adv. Dkt. 80-30	2/1/21	The Official Committee of Unsecured Creditors' Second Requests for Production of Documents to Highland

64.	Adv. Dkt. 80-31	2/1/21	The Official Committee of Unsecured Creditors' Third Requests for Production of Documents to Highland
65.	Adv. Dkt. 80-32	2/1/21	The Official Committee of Unsecured Creditors' Fourth Requests for Production of Documents to Highland
66.	Adv. Dkt. 80-33	2/1/21	Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor [Docket 808]
67.	Adv. Dkt. 80-34	2/1/21	Debtor's Motion for Entry of (I) A Protective Order, or, in the Alternative, (Ii) An Order Directing the Debtor to Comply With Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors, Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034 [Docket 810]
68.	Adv. Dkt. 80-35	2/1/21	Transcript of 07/21/20 Hearing
69.	Adv. Dkt. 80-36	2/1/21	Transcript of 01/08/21 Hearing
70.	Adv. Dkt. 80-37	2/1/21	Transcript of 01/26/21 Hearing
71.	Adv. Dkt. 88	2/5/21	Amended Notice of Hearing on Motion for Contempt
72.	Adv. Dkt. 101	2/17/21	Debtor's Amended Witness and Exhibit List for Hearing on Motion for Contempt
73.	Adv. Dkt. 101-1	2/17/21	Response of James Dondero to the Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor [Case No. 19-34054, Docket No. 832]
74.	Adv. Dkt. 101-2	2/17/21	E-mail string from October 26, 2020 titled "Highland: Privilege Terms Searches" [Leventon Deposition Exhibit 2]
75.	Adv. Dkt. 101-3	2/17/21	E-mail string from November 13, 2020 titled "Highland: Document Production Issues" [Leventon Deposition Exhibit 3]
76.	Adv. Dkt. 101-4	2/17/21	E-mail string dated December 3, 2020 titled "Highland: Firm Phones" [Leventon Deposition Exhibit 4]
77.	Adv. Dkt. 101-5	2/17/21	E-mail dated December 3, 2020 from Leventon to Kim, Schroth [Leventon Deposition Exhibit 5; Bates No. HCMLP 000382]
78.	Adv. Dkt. 101-6	2/17/21	E-mail string dated December 4, 2020 titled "Dugaboy Investment Trust" [Leventon Deposition Exhibit 6; Bates Nos. HCMLP 000426-000427]

79.	Adv. Dkt. 101-7	2/17/21	E-mail string dated December 7, 2020 re Engagement [Leventon Deposition Exhibit 7; Bates Nos. HCMLP 000374-000376]
80.	Adv. Dkt. 101-8	2/17/21	E-mail dated January 11, 2021 re AT&T changes to account [Ellington Deposition Exhibit 2; Bates Nos. HCMLP 000372-000373]
81.	Adv. Dkt. 101-9	2/17/21	E-mail dated December 11, 2020 re Testimony [Ellington Deposition Exhibit 3; Bates No. HCMLP 000498]
82.	Adv. Dkt. 101-10	2/17/21	E-mail dated December 12, 2020 re witnesses for hearing [Ellington Deposition Exhibit 4; Bates No. HCMLP 000504]
83.	Adv. Dkt. 101-11	2/17/21	E-mail dated December 15, 2020 re Clubok [Ellington Deposition Exhibit 6; Bates No. HCMLP 000496]
84.	Adv. Dkt. 101-12	2/17/21	E-mail dated December 16, 2020 from Michael Lynn to Scott Ellington re Call [Ellington Deposition Exhibit 9; Bates No. HCMLP 000515]
85.	Adv. Dkt. 101-13	2/17/21	E-mail dated December 24, 2020 re Letters to and From K&L Gates [Ellington Deposition Exhibit 11; Bates Nos. HCMLP 000509-000512]
86.	Adv. Dkt. 101-14	2/17/21	E-mail string dated December 24, 2020 re Letter and Discovery Requests [Ellington Deposition Exhibit 12; Bates Nos. HCMLP 000606-000619]
87.	Adv. Dkt. 101-15	2/17/21	Highland's New Cell Phone Reimbursement Policy dated March 27, 2012
88.	Adv. Dkt. 101-16	2/17/21	Highland Capital Management Employee Handbook
89.	Adv. Dkt. 101-17	2/17/21	Annual Certification and Conflicts of Interest Disclosure 2019 (James Dondero) <b>(REDACTED)</b>
90.	Adv. Dkt. 101-18	2/17/21	Q3 2020 Questionnaire and Transactions Certification (James Dondero) <b>(REDACTED)</b>
91.	Adv. Dkt. 101-19	2/17/21	Annual Certification and Conflicts of Interest Disclosure 2019 (Scott Ellington)
92.	Adv. Dkt. 101-20	2/17/21	Q3 2020 Questionnaire and Transactions Certification (Scott Ellington)
93.	Adv. Dkt. 106	2/20/21	James Dondero's Witness and Exhibit List for Contempt Hearing
94.	Adv. Dkt. 106-1	2/20/21	Amended and Restated Shared Services Agreement, dated effective as of January 1, 2018, by and between Highland Capital Management, L.P. and NexPoint Advisors, L.P.
95.	Adv. Dkt. 106-2	2/20/21	Second Amended and Restated Shared Services Agreement by and between Highland Capital

			Management, L.P. and Highland Capital Management Fund Advisors, L.P., dated February 8, 2013
96.	Adv. Dkt. 106-3	2/20/21	Debtor's Responses and Objections to Defendant James Dondero's First Set of Discovery Requests to Highland Capital Management, L.P.
97.	Adv. Dkt. 106-4	2/20/21	Debtor's Notice of Termination of Shared Services Agreement with NexPoint Advisors, L.P. effective January 31, 2021
98.	Adv. Dkt. 106-5	2/20/21	Debtor's Notice of Termination of Shared Services Agreement with Highland Capital Management Fund Advisors, L.P. effective January 31, 2021
99.	Adv. Dkt. 106-6	2/20/21	Employee Handbook of Highland Capital Management, L.P.
100.	Adv. Dkt. 106-7	2/20/21	Debtor's Response to Mr. James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business [Docket No. 1546]
101.	Adv. Dkt. 106-8	2/20/21	Term Sheet [Dkt. 354 and 354-1]
102.	Adv. Dkt. 106-9	2/20/21	Email from Debtor's counsel to Dondero's counsel, dated December 23, 2020
103.	Adv. Dkt. 106-10	2/20/21	Dondero's Objections and Responses to Debtor's First Request for Production
104.	Adv. Dkt. 106-11	2/20/21	Email from Bryan Assink to Debtor's counsel containing Dondero's Objections and Responses to Debtor's First Request for Production, dated December 31, 2020
105.	Adv. Dkt. 106-12	2/20/21	Sub-Advisory Agreement between NexPoint Advisors, L.P. and Highland Capital Management, L.P.
106.	Adv. Dkt. 106-13	2/20/21	Payroll Expense Reimbursement Agreement dated effective as of January 1, 2018 by and between NexPoint Advisors, L.P. and Highland Capital Management, L.P.
107.	Adv. Dkt. 106-14	2/20/21	Payroll Expense Reimbursement Agreement dated effective as of May 1, 2018 by and between Highland Capital Management Fund Advisors, L.P. and Highland Capital Management, L.P.
108.	Adv. Dkt. 106-15	2/20/21	Transcript of December 10, 2020 Hearing
109.	Adv. Dkt. 106-16	2/20/21	Email chain between Douglas Draper, John Morris, and Isaac Leventon regarding Dugaboy documents, dated December 16, 2020

110.	Adv. Dkt. 106-17	2/20/21	Email chain between Douglas Draper and John Morris regarding Dugaboy documents, dated December 18, 2020
111.	Adv. Dkt. 106-18	2/20/21	Email chain between Douglas Draper and John Morris regarding Dugaboy documents, dated December 18, 2020
112.	Adv. Dkt. 106-19	2/20/21	Email chain between Douglas Draper and John Morris regarding Dugaboy documents, dated December 23, 2020
113.	Adv. Dkt. 106-20	2/20/21	Email chain between Douglas Draper and John Morris regarding Dugaboy documents, dated January 14, 2021
114.	Adv. Dkt. 107	2/20/21	James Dondero's Motion in Limine
115.	Adv. Dkt. 108	2/20/21	James Dondero's Motion for Emergency Hearing on Motion in Limine
116.	Adv. Dkt. 110	2/21/21	James Dondero's Objection to Debtor's Motion for Contempt
117.	Adv. Dkt. 111	2/11/21	District Court Memorandum Opinion and Order Denying Leave to Appeal Preliminary Injunction
118.	Adv. Dkt. 115	2/24/21	Debtor's Objection to James Dondero's Motion in Limine
119.	Adv. Dkt. 121	3/4/21	Amended Notice of Hearing on Motion for Contempt
120.	Adv. Dkt. 126	3/10/21	Motion to Continue Contempt Hearing, with exhibits
121.	Adv. Dkt. 126-1	3/10/21	Exhibit A to Motion to Continue
122.	Adv. Dkt. 126-2	3/10/21	Exhibit B to Motion to Continue
123.	Adv. Dkt. 128	3/21/21	Debtor's Amended Exhibit List (Debtor's Notice of Replacement Exhibits 11, 38, and 39)
124.	Adv. Dkt. 128-1	3/21/21	Debtor's Exhibit 11 - Order Granting Debtor's Motion for a Temporary Restraining Order Against James Dondero
125.	Adv. Dkt. 128-2	3/21/21	Debtor's Exhibit 38 – Invoice of Debtor's counsel for the period from November 3, 2020 through December 31, 2020
126.	Adv. Dkt. 128-3	3/21/21	Debtor's Exhibit 39 – Invoice of Debtor's counsel for the period from December 10, 2020 through January 31, 2021
127.	Adv. Dkt. 131	3/23/21	Notice of Continued Hearing on Motion for Contempt
128.	Adv. Dkt. 132, 132-1, 132-2, 132-3	3/24/21	James Dondero's Motion to Reopen Evidence to Allow for Additional Rebuttal Witness Testimony, with exhibits

129.	Adv. Dkt. 134	3/24/21	Order Denying James Dondero's Motion to Reopen
130.	Adv. Dkt. 159	5/3/21	James Dondero's Brief Opposed to Debtor's Complaint for Injunctive Relief
131.	Adv. Dkt. 180	5/18/21	Notice of Filing of Proposed Consensual Order Resolving Adversary Proceeding
132.	Adv. Dkt. 182	5/18/21	Order Resolving Adversary Proceeding
133.	Adv. Dkt. 196	6/15/21	James Dondero's Emergency Motion to Stay Pending Appeal
134.	Adv. Dkt. 197	6/15/21	Motion for Emergency Hearing on Motion to Stay Pending Appeal
135.	Adv. Dkt. 198	6/17/21	Notice of Hearing on Motion to Stay
136.	Adv. Dkt. 201	6/22/21	Stipulation and Agreed Order Resolving Defendant's Emergency Motion to Stay Pending Appeal and for Approval of Supersedeas Bond or Other Security
137.	Adv. Dkt. 14	12/10/20	Court admitted exhibits date of hearing December 10, 2020 (RE: related document(s)1 Adversary case 20-03190. Complaint by Highland Capital Management, L.P. against James D. Dondero. Nature(s) of suit: 72 (Injunctive relief - other). filed by Plaintiff Highland Capital Management, L.P.) (COURT ADMITTED THE Declaration of James P. Seery, Jr. and Exhibit's #1 Through #29 that was attached to his declaration). (Edmond, Michael)
138.	Adv. Dkt. 54	1/8/21	Court admitted exhibits date of hearing January 8, 2021 (RE: related document(s)2 Motion for preliminary injunction (Plaintiff Highland Capital Management, L.P.'s Emergency Motion for a Temporary Restraining Order and Preliminary Injunction against Mr. James Dondero) filed by Plaintiff Highland Capital Management, L.P. (COURT ADMITTED PLAINTIFF/DEBTOR'S EXHIBIT'S #A THROUGH #Y By Mr. John Morris) (Edmond, Michael)
139.	Adv. Dkt. 140	3/22/21	Court admitted exhibits date of hearing March 22, 2021 (RE: related document(s)48 Motion for contempt against James Dondero regarding Violation of the Temporary Restraining Order (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) filed by Plaintiff Highland Capital

			Management, L.P., (COURT ADMITTED DEBTOR'S EXHIBITS #1, #2, #7, #8, #9, #10, #11, #12, #13, #14, #15, #17, #18, #19, #20, #21, #22, #24, #25, #26, #27, #28, #33, #35, #36, #37, #38, #39, #47 THROUGH #57, & DEFENDANT/JAMES DONDERO EXHIBIT'S #1 THROUGH #20) (Edmond, Michael) (Entered: 03/25/2021) <i>Note: See Adv. Dkts. 80, 101, 106, and 128 for Witness and Exhibit Lists with attached exhibits</i>
<b>Transcripts</b>			
140.	Adv. Dkt. 19 in Case No. 20-03190	12/10/20	Transcript of hearing conducted on December 10, 2020 in Adv. No. 20-03190
141.	Bankr. Dkt. 1610	12/16/20	Transcript of hearing conducted on December 16, 2020 in Case No. 19-34054
142.	Adv. Dkt. 56 in Case No. 20-03190	1/8/21	Transcript of hearing conducted on January 8, 2021 in Adv. No. 20-03190
143.	Adv. Dkt. 56 in Case No. 21-3000	1/26/21	Transcript of hearing conducted on January 26, 2021 in Adv. No. 21-3000
144.	Adv. Dkt. 138 in Case No. 20-03190	3/22/21	Transcript of hearing conducted on March 22, 2021 in Adv. No. 20-03190
145.	Adv. Dkt. 139 in Case No. 20-03190	3/24/21	Transcript of hearing conducted on March 24, 2021 in Adv. No. 20-03190
146.	Adv. Dkt. 185 in Case No. 20-03190	5/18/21	Transcript of hearing conducted on May 18, 2021 in Adv. No. 20-03190
147.	Adv. Dkt. 65 in Case No. 20-03195	5/20/21	Transcript of hearing conducted on May 20, 2021 in Adv. No. 20-03195
148.	Adv. Dkt. 50 in Case No. 21-03003	5/20/21	Transcript of hearing conducted on May 20, 2021 in Adv. No. 21-03003

**STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

1. Whether the Bankruptcy Court erred in finding Appellant violated the TRO.
2. Whether the Bankruptcy Court erred in finding by clear and convincing evidence that Appellant violated a clear, definite, and specific provision of the TRO.
3. Whether the Bankruptcy Court erred in imposing significant monetary sanctions against Appellant when, among other things, the Debtor failed to demonstrate that its business suffered any financial harm, damages, interruption, or losses resulting from the purported violations.
4. Whether the Bankruptcy Court erred in imposing a “\$100,000 sanction” for each level of appeal of the Contempt Order that Appellant may take.
5. Whether the Bankruptcy Court improperly and contrary to the evidence found Appellant violated the TRO for actions he took before the TRO was entered.
6. Whether the Bankruptcy Court erred in assessing monetary contempt sanctions against Appellant for purported violations of the TRO when the Debtor failed to put on any evidence of financial harm suffered by the Debtor resulting from the purported violations.
7. Whether the Bankruptcy Court erred in admitting and considering the invoices of Debtor’s counsel in imposing contempt sanctions, including because (i) the invoices were admitted without competent testimony; (ii) there was no independent evidence that the fees incurred in the invoices related to the Contempt Motion; and (iii) the fees incurred were not reasonable, necessary, or sufficient as to be compensable under the law of the Fifth Circuit.
8. Whether the Bankruptcy Court erred in purportedly basing its monetary contempt sanction on the invoices of Debtor’s counsel when (i) the invoices were admitted without competent testimony; (ii) the invoices did not segregate time entries for matters solely related to

the Contempt Motion; (iii) the invoices included the Debtor's professional fees for all time incurred in the broad category of "Bankruptcy Litigation," which included hundreds of time entries—and hundreds of thousands of dollars in fees—for matters not even related to this adversary proceeding; (iv) there was no evidence that the sanctions imposed by the Court, which were purportedly based on the fees incurred by the Debtor as shown in counsel's invoices, were related to the Contempt Motion or the actions on which the motion is based; and (v) the fees incurred were not reasonable, necessary, or sufficient as to be compensable under the law of the Fifth Circuit.

9. Whether the Bankruptcy Court erred in basing certain of its contempt sanctions on attorney's fees purportedly incurred by the Debtor in February and March when there were no invoices, testimony, or other evidence in the record to support the purported fees as estimated by the Bankruptcy Court.

10. Whether the Bankruptcy Court erred by improperly shifting the burden of proof to Appellant in determining whether he violated the TRO, including by finding his communications with certain employees of the Debtor were not authorized under the exceptions to the TRO despite the fact that the Debtor did not establish by clear and convincing evidence that these exceptions did not apply to the alleged offending conduct.

11. Whether the contempt sanctions imposed by the Bankruptcy Court are in effect punitive, criminal contempt sanctions that the Bankruptcy Court lacks authority and jurisdiction to impose.

Dated: July 6, 2021

Respectfully submitted,

/s/ Bryan C. Assink

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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that, on July 6, 2021, a true and correct copy of the foregoing document was served via the Court's CM/ECF system on counsel for Debtor-Appellee Highland Capital Management, L.P. and on all other parties requesting or consenting to such service in this case.

/s/ Bryan C. Assink

Bryan C. Assink