





**DEFENDANTS' MOTION TO  
CONSOLIDATE THE NOTE CASES**

Defendants<sup>1</sup> hereby file this Motion to Consolidate five related cases (the "Note Cases") involving promissory notes reflecting loans made by Plaintiff-Debtor Highland Capital Management, L.P., requesting the Court to consolidate the Note Cases into Case No. 3:21-cv-00881, to be heard by the Honorable Judge Starr for all purposes other than trial, and additionally to consolidate all of the cases other than Case No. 3:21-cv-00881-X for trial. In support, Defendants show as follows:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Motion pursuant to Sections 1331 and 1367 of Title 11 of the United States Code.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1409.

**II. RELIEF**

3. Defendants request that this Court issue the proposed form order attached as **Exhibit A** (the "Proposed Order") hereto.

4. For reasons set forth more fully in Defendants' Memorandum of Law in Support of their Motion to Consolidate the Note Cases (the "Memorandum in Support"), Defendants request that this Court consolidate the Note Cases under Case No. 3:21-cv-00881, to be heard by the Honorable Judge Starr, who already presides over two of the five above-captioned Note Cases, and several other cases arising out of the Case No. 19-34054-sgj11, pending in the United States Bankruptcy Court for the Northern District of Texas (the "Highland Bankruptcy").

---

<sup>1</sup> As used herein, the term "Defendants" includes all named Defendants in the above-captioned proceedings, unless otherwise specified.

5. In accordance with Rule 7.1 of the Local Civil Rules of the United States District Court for the Northern District of Texas, Defendants are filing contemporaneously herewith and in support of their Motion: (1) the Memorandum in Support, and (2) their Appendix in Support of Defendants' Motion to Consolidate the Note Cases (the "Appendix").

6. Based on the arguments presented in the Memorandum in Support and the exhibits included within the Appendix, Defendants are entitled to the relief requested herein and as set forth in the Proposed Order.

7. Notice of this Motion has been provided to all parties.

WHEREFORE, Defendants respectfully request this Court enter the Proposed Order in the form annexed hereto as Exhibit A granting the relief requested herein, and grant Defendants such other and further relief as the Court may deem proper.

Dated: December 10, 2021

Respectfully submitted,

/s/Deborah Deitsch-Perez

Deborah Deitsch-Perez

State Bar No. 24036072

Michael P. Aigen

State Bar No. 24012196

STINSON LLP

3102 Oak Lawn Avenue, Suite 777

Dallas, Texas 75219

(214) 560-2201 telephone

(214) 560-2203 facsimile

Email: [deborah.deitschperez@stinson.com](mailto:deborah.deitschperez@stinson.com)

Email: [michael.aigen@stinson.com](mailto:michael.aigen@stinson.com)

**ATTORNEYS FOR JAMES DONDERO, NANCY  
DONDERO, HIGHLAND CAPITAL MANAGEMENT  
SERVICES, INC. AND NEXPOINT REAL ESTATE  
PARTNERS, LLC**

/s/Clay M. Taylor

Clay M. Taylor  
State Bar No. 24033261  
Bryan C. Assink  
State Bar No. 24089009  
BONDS ELLIS EPPICH SCHAFFER JONES LLP  
420 Throckmorton Street, Suite 1000  
Fort Worth, Texas 76102  
(817) 405-6900 telephone  
(817) 405-6902 facsimile  
Email: clay.taylor@bondsellis.com  
Email: bryan.assink@bondsellis.com  
**ATTORNEYS FOR JAMES DONDERO**

/s/Daniel P. Elms

Daniel P. Elms  
State Bar No. 24002049  
GREENBERG TRAUIG, LLP  
2200 Ross Avenue, Suite 5200  
Dallas, Texas 75201  
(214) 665-3600 telephone  
(214) 665-3601 facsimile  
Email: elmsd@gtlaw.com  
**ATTORNEYS FOR NANCY DONDERO**

/s/Douglas S. Draper

Douglas S. Draper (La. Bar No. 5073)  
Leslie A. Collins (La. Bar No. 14891)  
Greta M. Brouphy (La. Bar No. 26216)  
HELLER, DRAPER & HORN, L.L.C.  
650 Poydras Street, Suite 2500  
New Orleans, LA 70130  
(504) 299-3300 telephone  
(504) 299-3399 facsimile  
Email: ddraper@hellerdraper.com  
Email: lcollins@hellerdraper.com  
Email: gbrouphy@hellerdraper.com  
**ATTORNEYS FOR THE DUGABOY INVESTMENT  
TRUST**

/s/Davor Rukavina

Davor Rukavina  
Julian P. Vasek  
MUNSCH HARDT KOPF & HARR, P.C.  
500 N. Akard Street, Suite 3800  
Dallas, Texas 75202-2790  
(214) 855-7500 telephone  
(214) 978-4375 facsimile  
Email: drukavina@munsch.com

**ATTORNEYS FOR NEXPOINT ADVISORS, L.P. AND  
HIGHLAND CAPITAL MANAGEMENT FUND  
ADVISORS, L.P.**

**CERTIFICATE OF CONFERENCE**

The undersigned hereby certifies that on December 7, 2021, counsel for Defendants conferenced with Plaintiff-Debtor's counsel regarding the relief requested herein as detailed more fully in the accompanying Declaration of Deborah Deitsch-Perez. The parties were unable to reach an agreement regarding the issues, and Debtor filed its own (improper) motion to consolidate solely in the third-lowest District Court case filed, with no filing in the first-filed (or any other of) the Note Cases. Defendants therefore understand this Motion is opposed.

/s/Deborah Deitsch-Perez  
Deborah Deitsch-Perez

**EXHIBIT A**

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

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Adv. Proc. No. 21-03005-sgj
	§	
NEXPOINT ADVISORS, L.P., JAMES	§	Case No. 3:21-cv-00880-C
DONDERO, NANCY DONDERO, AND	§	
THE DUGABOY INVESTMENT TRUST,	§	
	§	
Defendants.	§	

---

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Adv. Proc. No. 21-03004-sgj
	§	
HIGHLAND CAPITAL MANAGEMENT FUND	§	Case No. 3:21-cv-00881-X
ADVISORS, L.P.,	§	
	§	
Defendant.	§	

---

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Adv. Proc. No. 21-03003-sgj
	§	
JAMES DONDERO, NANCY DONDERO, AND	§	Case No. 3:21-cv-01010-E
THE DUGABOY INVESTMENT TRUST,	§	
	§	
Defendants.	§	

---

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Adv. Proc. No. 21-03006-sgj
	§	
HIGHLAND CAPITAL MANAGEMENT	§	Case No. 3:21-cv-01378-N
SERVICES, INC., JAMES DONDERO,	§	

---

NANCY DONDERO, AND THE  
DUGABOY INVESTMENT TRUST,

Defendants.

§  
§  
§  
§  
§

---

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

Adv. Proc. No. 21-03007-sgj

Case No. 3:21-cv-01379-X

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

HCRE PARTNERS, LLC (n/k/a NexPoint  
Real Estate Partners, LLC), JAMES  
DONDERO, NANCY DONDERO, AND  
THE DUGABOY INVESTMENT TRUST,

Defendants.

---

**ORDER GRANTING  
DEFENDANTS MOTION TO CONSOLIDATE THE NOTE CASES**

Before this Court is Defendant’s Motion to Consolidate the Note Cases [Docket No. \_\_\_] (the “Motion”). Having considered: (a) the Motion; (b) Defendants’ Memorandum of Law in Support of their Motion to Consolidate the Note Cases [Docket No. \_\_\_]; and (c) the Appendix in Support of Defendants’ Motion to Consolidate the Note Cases [Docket No. \_\_\_] (the “Appendix”) and the exhibits annexed thereto; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1331; and this court having found that venue of this proceeding is proper pursuant to 28 U.S.C. § 1391; and this Court having found that consolidation of the Note Cases is warranted under Rule 42(a) of the Federal Rules of Civil Procedure; and this Court having found that notice of this Motion was properly and adequately provided to Plaintiff; and this Court having found that the interests of judicial efficiency are best served by consolidation of the Note Cases under Case No. 3:21-cv-00881 to be heard by the Honorable Judge Starr because (i) Case No. 3:21-cv-00881 is the lowest-numbered case in the Dallas Division, and (ii) Judge Starr has already been assigned two of the five Note Cases captioned above, as well as other cases arising out of the Highland

Bankruptcy; and this Court having determined that the legal and factual bases set forth in the Motion establish good cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor and for the reasons set forth in the record on this Motion, it is **HEREBY ORDERED THAT**:

1. Defendants' Motion is **GRANTED** as set forth herein.
2. The Note Cases are consolidated under Case No. 3:21-cv-00881 for all purposes other than that Case No. 3:21-cv-00881-X may be tried separately (or that the determination of whether such case shall be tried separately is deferred until after all summary judgement motions are heard and decided), to be heard by the Honorable Judge Starr.

It is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
HONORABLE JUDGE PRESIDING  
United States District Judge