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

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

In re:	§ § Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., <sup>1</sup>	§ § Case No. 19-34054-sgj11
Reorganized Debtor.	§ §
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§ § Adversary Proceeding No.
Plaintiff,	§ § 21-03004-sgj
vs.	§ §
HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.,	§ §
Defendant.	§ §

**REORGANIZED DEBTOR’S AMENDED WITNESS AND EXHIBIT LIST WITH  
RESPECT TO EVIDENTIARY HEARING TO BE HELD ON JANUARY 10, 2022**

<sup>1</sup> The Reorganized Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.



Highland Capital Management, L.P. (the “Reorganized Debtor”) submits the following amended witness and exhibit list with respect to *Defendant’s Second Motion for Leave to Amend Answer and Brief in Support Thereof* [Docket No. 82], which the Court has set for hearing at 9:30 a.m. (Central Time) on January 10, 2022 (the “Hearing”) in the above-styled adversary proceeding (the “Adversary Proceeding”).

**A. Witnesses:**

1. Dennis C. Sauter;
2. Any witness identified by or called by any other party; and
3. Any witness necessary for rebuttal.

**B. Exhibits:**

<b>Number</b>	<b>Exhibit</b>	<b>Offered</b>	<b>Admitted</b>
1.	Complaint against HCMFA [Docket No. 109]		
2.	Amended Complaint against HCMS [Docket No. 109]		
3.	Highland’s Consolidated Financial Statements, dated December 31, 2018 [Docket No. 109]		
4.	HCMFA’s Incumbency Certificate, April 2019		
5.	Email string re 15(c) Follow up (10/2/21 – 10/6/21)		
6.	HCMFA’s Consolidated Financial Statements and Supplemental Information (December 31, 2018) [Docket No. 109]		
7.	5/2/19 e-mail and attachment (Promissory Note) [Docket No. 109]		
8.	5/3/19 e-mail [Docket No. 109]		
9.	5/3/19 Promissory Note [Docket No. 109]		

Number	Exhibit	Offered	Admitted
10.	Supplemental 15(c) Information Request 10.23.20 [Docket No. 109]		
11.	James Dondero's Objections and Responses to Highland Capital Management, L.P.'s Second Set of Interrogatories [Docket No. 109]		
12.	Peet Burger 7/30/21 Deposition Transcript [Docket No. 109]		
13.	James Dondero 11/4/21 Deposition Transcript [Docket No. 109]		
14.	Frank Waterhouse 10/19/21 Deposition Transcript [Docket No. 109]		
15.	Declaration of Dennis C. Sauter, Jr. [Docket No. 109]		
16.	Email from David Klos to the Debtor's Corporate Accounting group, with a copy to Melissa Schroth, dated February 2, 2018 [Docket No. 109]		
17.	(a) Email from Blair Hillis to David Klos and the Debtor's Corporate Accounting group, with a copy to Melissa Schroth, dated August 1, 2018 and (b) an email from David Klos to the Debtor's Corporate Accounting group, with a copy to Melissa Schroth, dated August 1, 2018 [Docket No. 109]		
18.	Dustin Norris 12/1/21 Deposition Transcript [Docket No. 109]		
19.	Dennis C. Sauter 11/17/21 Deposition Transcript [Docket No. 109]		
20.	Kristin Hendrix 10/27/21 Deposition Transcript [Docket No. 109]		
21.	David Klos 10/27/21 Deposition Transcript [Docket No. 109]		
22.	Debtor's back-up for the December Monthly Operating Report, titled "December 2019 Due From Affiliates" [Docket No. 109]		
23.	Debtor's back-up for the September Monthly Operating Report, titled "September 2020 Due From Affiliates" [Docket No. 109]		
24.	Debtor's back-up for the January 2021 Monthly Operating Report, titled "January 2021 Due From Affiliates" [Docket No. 109]		

Number	Exhibit	Offered	Admitted
25.	Debtor's January 2021 Affiliates Loan Receivables Summary [Docket No. 109]		
26.	Email from Kristin Hendrix to Jim Dondero, with a copy to Frank Waterhouse, dated August 29, 2020 regarding 7/31/20 HCMLP Requests ( <b>REDACTED</b> ) [Docket No. 109]		
27.	Email from Kristin Hendrix to Jim Dondero, with a copy to Frank Waterhouse and David Klos, dated April 27, 2020 regarding HCMLP Schedule of Investments ( <b>REDACTED</b> ) [Docket No. 109]		
28.	Declaration of David Klos in Support of HCMLP's Motion for Partial Summary Judgment [Docket No. 109]		
29.	Declaration of Hayley R. Winograd in Support of HCMLP's Opposition to HCMFA's Second Motion to Amend [Docket No. 109]		
30.	Email to counsel for HCMFA on October 25, 2021 producing word versions of the HCMFA Notes [Docket No. 109]		
31.	GAF Resolution Memo dated May 28, 2019		
32.	Any document entered or filed in the Adversary Proceeding, including any exhibits thereto		
33.	Any document entered or filed in the Reorganized Debtor's Bankruptcy Case, including any exhibits thereto		
34.	All exhibits necessary for impeachment and/or rebuttal purposes		
35.	All exhibits identified by or offered by any other party at the Hearing		

Dated: January 10, 2022.

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# **EXHIBIT 31**



HIGHLAND CAPITAL  
MANAGEMENT

**DATE:** May 28, 2019  
**TO:** The Board of Trustees (the “Board”) of Highland Global Allocation Fund (the “Fund”)  
**FROM:** Highland Capital Management Fund Advisors, L.P. (“HCMFA” or the “Adviser”)  
**RE:** Resolution of the Fund’s Net Asset Value (“NAV”) Error

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This memorandum summarizes the final resolution of the Fund’s NAV error related to its TerreStar Corporation (“TerreStar”) equity holding. In connection with the Fund’s conversion from an open-end fund to a closed-end fund (the “Conversion”) on February 13, 2019, the Office of the Chief Accountant (“OCA”) of the SEC reviewed the Adviser’s fair valuation of TerreStar equity, in particular the application of Financial Accounting Standards Board Accounting Standards Update 2011-4, Topic 820, Fair Value Measurement (“ASC 820”) to two transactions in TerreStar equity that occurred in March 2018 (the “March Transactions”). The OCA provided its feedback during an exit call on February 8, 2019 and subsequently confirmed no comments to the Adviser’s confirmation of understanding letter on February 14, 2019.

The Adviser and Houlihan Lokey, an independent third party expert valuation consultant approved by the Board, initially determined that the March Transactions were “non-orderly” and should be given “zero weighting” for purposes of determining fair value. As reflected in the consultation, the Adviser ultimately determined that both March Transactions should be classified as “orderly.” The fair valuation methodology adopted, as addressed in the consultation, weights inputs and does not reflect last sales transaction pricing exclusively in determining fair value. The “orderly” determination and adoption of the weighted fair valuation methodology resulted in NAV errors in the Fund (the “NAV Error”).

After incorporation of the updated valuation into the Fund’s NAV, the gross NAV Error, excluding interest, the advisory fee rebate, and processing costs, amounted to approximately \$6.1 million of loss to the Fund and approximately \$1.4 million of losses to Shareholders (a total loss of approximately \$7.5 million) over the period between March 18, 2018 and January 19, 2019 (the “NAV Restatement Period”).

The Fund was made whole through a \$5,186,496 payment on February 15, 2019, and a \$2,398,842 payment on May 2, 2019. A detailed breakdown of the NAV Error and the make whole payments is set forth below. Shareholder reprocessing and reimbursement are in progress with the Fund’s prior transfer agent, DST Systems, Inc. (as transfer agent to the open-end fund), and given detailed omnibus account information has not yet been obtained the estimated make whole payments are subject to change. A representative of the Adviser will provide the Board with an update on the process during the May 28, 2019 Board meeting.

NAV Error Breakdown and Make Whole Payments

	Transaction Date(s)	Loss to Fund	Estimated Loss to Shareholders <sup>3</sup>	Totals
Estimated Net Loss	3/14/18 thru 1/7/19	(6,068,851)	(1,373,272)	(7,442,123)
Processing, Fees, Interest	3/14/18 thru 1/7/19	(375,000)	-	(375,000)
Insurance Proceeds	2/15/2019	3,566,248	1,373,272	4,939,520
Insurance deductible paid by Adviser	2/15/2019	246,976	-	246,976
Management fee offset	4/1/2019	47,000	-	47,000
Additional payment from Adviser	5/2/2019	2,339,627 <sup>2</sup>	-	2,339,627
Reimbursement of Processing costs from Adviser	- <sup>1</sup>	244,000	-	244,000
<b>Total</b>		<b>-</b>	<b>-</b>	<b>-</b>

Supplemental Numerical Update

Additional estimated loss to fund and shareholders	1/8/19 thru 1/28/19 <sup>5</sup>	(19,789)		
Additional processing, management fees, and interest	Note 4	(39,426)		
Additional payment from Adviser	5/2/2019	59,215		
<b>Total additional payment from Adviser<sup>6</sup></b>	<b>5/2/2019</b>	<b>2,398,842</b>		

**Notes**

1 - Expected to be incurred thru 12/31/19, and will be reimbursed by Adviser as incurred. To date no invoices have been billed or paid, but upon receipt of a future invoice, the Adviser will promptly pay.

2 - Includes \$2,255,628 of previously outstanding balance, and \$84,000 of interest calculated through 1/7/19, which was the "as of date" used for the calculations in the OCA submission.

3 - Represents the estimated losses to shareholder subscribing into the fund during the NAV Restatement Period and estimated losses to be determined after reprocessing individual capital activity that was held in Omnibus accounts.

4 - Proposal from service provider was higher than original estimate, and includes interest thru date of final payment made by Adviser.

5 - This includes the calculations subsequent to 1/7/19 (which was the "as of date" used for the calculations in the OCA submission) "through date" 1/28/19, which the final date in which the revised mark was fully reflected in the NAV.

6 - Includes \$2,339,627 and \$59,215 of Additional payments from Adviser