

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

OFFICIAL COMMITTEE OF §  
UNSECURED CREDITORS, §

*Plaintiff,* §

Civil Action No. 3:21-CV-01173-X

v. §

CLO HOLDCO, LTD.; HIGHLAND §  
DALLAS FOUNDATION, INC.; §  
CHARITABLE DAF HOLDCO, LTD.; §  
CHARITABLE DAF FUND LP; THE §  
DUGABOY INVESTMENT TRUST; THE §  
GET GOOD NONEXEMPT TRUST; §  
GRANT JAMES SCOTT, III; AND JAMES §  
D. DONDERO §

*Defendants.* §

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**JOINT RESPONSE TO ORDER TO SHOW CAUSE AND STATUS REPORT**

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The defendants who previously appeared in the underlying adversary proceeding, Adversary No. 20-03195 (the “Adversary Proceeding”), CLO HoldCo, Ltd.; Highland Dallas Foundation, Inc.; The Dugaboy Investment Trust; The Get Good Nonexempt Trust; Grant James Scott, III; and James D. Dondero (collectively, the “Defendants”), along with Marc S. Kirschner, as Litigation Trustee of the Litigation Sub-Trust established pursuant to the *Fifth Amended Plan of Reorganization of Highland Capital Management L.P.* [Bankruptcy Case No. 19-34054-sgj11, Dkt. No. 1472] (the “Plan”), who was substituted as plaintiff in the Adversary Proceeding upon the effective date of the Plan (the “Litigation Trustee,” along with the Defendants, the “Parties”) submit this *Joint Response* to the Court’s *Order to Show Cause* [Dkt. No. 5] and *Status Report*, as directed by the Court’s previous *Electronic Order* [Dkt. No. 4].



The above-captioned proceeding was generated by the filing of a *Motion to Withdraw the Reference* (the “Dugaboy Motion to Withdraw the Reference”) by one of the Defendants, The Dugaboy Investment Trust, in the underlying Adversary Proceeding before the Bankruptcy Court, Adversary No. 20-03195. The Dugaboy Motion to Withdraw Reference was filed on May 3, 2021 [Adv. Proc. Dkt. No. 33], and along with other motions to withdraw reference was set for a status conference before the Bankruptcy Court on June 3, 2021 pursuant to Local Bankruptcy Rule 5011-1(a). On May 18, 2021, the then-plaintiff, the Official Committee of Unsecured Creditors (the “Committee”), moved to stay the Adversary Proceeding [Adv. Proc., Dkt. No. 46]. On May 20, 2021, the Bankruptcy Court orally granted the Committee’s motion to stay [Adv. Proc., Dkt. No. 55].

On May 23, 2021, the Dugaboy Motion to Withdraw the Reference was transmitted to this Court [Adv. Proc. Dkt. No. 60], and this Court opened this Civil Action.<sup>1</sup>

On May 24, 2021, the Bankruptcy Court entered an order pursuant to its May 20, 2021 oral ruling, staying further proceedings in the Adversary Proceeding [Adv. Proc. Dkt. No. 62]. On subsequent motion by the Committee, the Adversary Proceeding was again stayed through October 15, 2021 [Adv. Proc. Dkt. No. 84].

On October 15, 2021, the Litigation Trustee filed with the Bankruptcy Court a *Notice of Voluntary Dismissal Without Prejudice* [Adv. Proc. Dkt. No. 96] (the “Notice of Dismissal”). In the Notice of Dismissal, the Litigation Trustee voluntarily dismissed the Adversary Proceeding in

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<sup>1</sup> Other Civil Actions were opened before other judges of this Court and the parties will take necessary action within those Civil Actions as well.

its entirety without prejudice pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, made applicable by Rule 7041 of the Federal Rules of Bankruptcy.

Because the Litigation Trustee has voluntarily dismissed the underlying Adversary Proceeding in its entirety, the Dugaboy Motion to Withdraw the Reference pending in the Adversary Proceeding is moot, and the Parties submit that the Civil Action opened upon the transmission of the Dugaboy Motion to Withdraw Reference should be dismissed as similarly moot.

The Parties received notice of the Court's Electronic Order and in error did not timely file a status report as directed. The Parties make no excuse for this failure and collectively apologize to the Court for the resultant inconvenience.

**COUNSEL SIGNATURES ON FOLLOWING PAGE**

**Respectfully submitted:**

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**CERTIFICATE OF SERVICE**

I, undersigned counsel, hereby certify that a true and correct copy of the above and foregoing document and all attachments thereto were sent via electronic mail via the Court's ECF system to all parties authorized to receive electronic notice in this case on this May 5, 2022.

/s/ Louis M. Phillips

Louis M. Phillips