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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., ¹	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
PCMG TRADING PARTNERS XXIII, L.P.,	§	
Plaintiff,	§	Adv. Proc. No. 22-03062-sgj
vs.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Defendant.	§	

**HIGHLAND CAPITAL MANAGEMENT, L.P.’S
AMENDED MOTION TO DISMISS**

¹ The Reorganized Debtor’s last four digits of its taxpayer identification service address for the above-captioned Reorganized Debtor is 100 Cresce



Highland Capital Management, L.P. (“Highland”), the reorganized debtor and defendant in the above-captioned adversary proceeding (the “Adversary Proceeding”), by and through its undersigned counsel, files this amended motion (the “Motion”) to dismiss the Adversary Proceeding. In support of its Motion, Highland states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Motion pursuant to sections 1334(a) and (b) of title 11 of the United States Code (the “Bankruptcy Code”).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1409.
3. The predicates for the relief requested in the Motion are 28 U.S.C. § 157(a), Rules 12(b)(1), 12(b)(6), and 17(a) of the Federal Rules of Civil Procedure, and Rules 7012 and 7017 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

RELIEF REQUESTED

4. Through this Motion, Highland requests that the Court issue the proposed form of order attached as **Exhibit A** (the “Proposed Order”) pursuant to 28 U.S.C. § 157(a). This Motion amends *Highland Capital Management, L.P.’s, Motion to Dismiss* [Docket No. 11].
5. For the reasons set forth more fully in *Highland Capital Management, L.P.’s Memorandum of Law in Support of Its Amended Motion to Dismiss* (the “Memorandum of Law”) filed contemporaneously with this Motion, Highland requests that the Court: (a) dismiss the Complaint with prejudice, and (b) grant such other and further relief as the Court deems just and proper.
6. In accordance with Rule 7007-1 of the *Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas* (the “Local Rules”), contemporaneously herewith and in support of the Motion Highland is filing: (a) its Memorandum of Law, and (b) the

Appendix in Support of Amended Motion to Dismiss (the “Appendix”), together with the exhibits annexed thereto.

7. Based on the exhibits annexed to the Appendix and the arguments contained in the Memorandum of Law, Highland is entitled to the relief requested herein as set forth in the Proposed Order.

8. Notice of this Motion has been provided to all parties to the Adversary Proceeding. Highland submits that no other or further notice need be provided.

WHEREFORE, Highland respectfully requests that the Court (i) enter the Proposed Order substantially in the form annexed hereto as **Exhibit A** granting the relief requested herein, and (ii) grant Highland such other and further relief as the Court may deem proper.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Dated: June 16, 2022.

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EXHIBIT A

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Reorganized Debtor.

PCMG TRADING PARTNERS XXIII, L.P.,

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant.

§
§ Chapter 11
§
§ Case No. 19-34054-sgj11
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§ Adv. Proc. No. 22-03062-sgj
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¹ The Reorganized Debtor's last four digits of its taxpayer identification number are (8357). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

ORDER GRANTING MOTION TO DISMISS

Before the Court is *Highland Capital Management L.P.’s Amended Motion to Dismiss* [Docket No. ___] (the “Motion”). Having considered: (a) the Motion; (b) *Highland Capital Management, L.P.’s Memorandum of Law in Support of Its Amended Motion to Dismiss* [Docket No. ___] (the “Memorandum of Law”);² and (c) the *Appendix in Support of Amended Motion to Dismiss* [Docket No. ___] (the “Appendix”) and the exhibits annexed thereto; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that (a) venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. § 1409; (b) the Effective Date has occurred; (c) the purported claims asserted against Highland arise from transactions that took place post-petition and, to the extent valid, would constitute post-petition administrative expense claims; (d) the Plan provided a specific procedure through which holders of purported administrative expense claims, such as Plaintiff, could file an application with the Bankruptcy Court for allowance of administrative expense claims; (e) pursuant to the Plan and Confirmation Order, all administrative expense claims had to be filed no later than the Administrative Expense Claims Bar Date, which occurred on September 25, 2021; (f) Plaintiff did not file its administrative expense claims by the Administrative Expense Claim Bar Date; (g) Highland has no contractual, extra-contractual, or other relationship with Highland Select Funds LP, and Plaintiff (1) has not alleged or pleaded an injury in fact or (2) stated a claim upon which relief can be granted; and (h) based on the foregoing (x) under the Confirmation Order and Plan, Plaintiff’s claims are time-barred because Plaintiff failed to file them by the Administrative Expense Claims Bar Date, (y) Plaintiff lacks constitutional standing to bring the Complaint, and

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Memorandum of Law.

(z) amendment of the Complaint would be futile as Plaintiff cannot assert a claim upon which relief can be granted; and this Court having found that Highland's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; 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. The Motion is **GRANTED**.
2. The Complaint is **DISMISSED** with prejudice.
3. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

###END OF ORDER###