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COUNSEL FOR DEFENDANT 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. §

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

**UNOPPOSED MOTION TO WITHDRAW
AS COUNSEL FOR DEFENDANT JAMES DONDERO**

John Y. Bonds, III, John T. Wilson IV, Bryan C. Assink, and the firm of Bonds Ellis Eppich Schafer Jones LLP and its attorneys (collectively, the “Firm”) hereby file this *Unopposed Motion to Withdraw as Counsel for Defendant James Dondero* (the “Motion”), requesting that the Court permit the Firm to withdraw as counsel for Mr. James Dondero (the “Client” or “Mr. Dondero”) in the above-captioned case. In support of the Motion, the Firm respectfully shows as follows:



1. The Firm currently represents Mr. Dondero as defendant in the above-captioned adversary proceeding. On May 18, 2021, this Court entered an order resolving the adversary proceeding. On June 7, 2021, this Court entered a memorandum opinion and order granting in part Plaintiff's contempt motion. That order has been appealed and is pending before the District Court. For the reasons set forth below, the Firm respectfully requests that the Court permit it to withdraw as Mr. Dondero's counsel in this adversary proceeding.

2. "This court applies federal law to questions of attorney ethics, but state and national standards inform its decision." *Top Sales v. Designer Vans*, 1997 U.S. Dist. LEXIS 20347, at *2 (N.D. Tex. 1997) (citing *In re American Airlines, Inc.*, 972 F.2d 605, 610 (5th Cir. 1992)).

3. The U.S. District Court for the Northern District of Texas has adopted the Texas Disciplinary Rules of Professional Conduct. *White v. BAC Home Loans Servicing, LP*, 2010 U.S. Dist. LEXIS 60077, at *5 (N.D. Tex. 2010) (citing N.D. TEX. LOC. R. 83.8(e)).

4. Rule 1.15 of the Texas Disciplinary Rules of Professional Conduct (the "Rules") provides several grounds by which an attorney can withdraw from representing a client.

5. Specifically, subsection (b) of Rule 1.15 provides as follows:

(b) Except as required by paragraph (a), a lawyer shall not withdraw from representing a client unless:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes may be criminal or fraudulent;

(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(4) a client insists upon pursuing an objective that the lawyer considers repugnant or imprudent or with which the lawyer has fundamental disagreement;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the Lawyer's services, including an obligation to pay the lawyer's fee as agreed, and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

6. Here, good cause exists for the Firm's withdrawal under subsection (b)(1) because withdrawal can be accomplished without material adverse effect on Mr. Dondero's interests.

7. First, cause exists to allow the Firm to withdraw as counsel under section (b)(1) because this adversary proceeding has been resolved. This case is only open because of the pending appeal of the contempt order. Because this case has been resolved, the Firm's withdrawal will not prejudice Mr. Dondero.

8. Second, good cause exists to allow the Firm to withdraw because Mr. Dondero is unopposed and has consented to the Firm withdrawing in this proceeding.

9. Moreover, the Firm has consulted with the attorneys representing the Plaintiff in this action and they are also unopposed.

10. Therefore, based on the agreement of both the withdrawing counsel's client, and that of the client's opponent, good cause exists for allowing the withdrawal.

CONCLUSION

For the reasons set forth above, the Firm respectfully requests that this Court enter an order (i) authorizing the Firm, including all of its attorneys, to withdraw as counsel for Mr. Dondero in the above-captioned adversary proceeding; and (ii) granting the Firm such other and further relief to which it may be entitled.

Dated: August 16, 2022

Respectfully submitted,

/s/ Bryan C. Assink

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**WITHDRAWING COUNSEL FOR
DEFENDANT JAMES DONDERO**

CERTIFICATE OF CONFERENCE

I, the undersigned, hereby certify that, on or about July 25, 2022, I conferred with Mr. Dondero regarding the relief requested herein. Mr. Dondero indicated that he is unopposed and consents to the Firm withdrawing as his counsel in this matter.

I, the undersigned, further certify that, on August 8, 2022, I conferred with Mr. Morris, counsel for Plaintiff, regarding the relief requested herein. Mr. Morris indicated that Plaintiff is unopposed to the relief requested in this Motion.

/s/ Clay M. Taylor

Clay M. Taylor

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on August 16, 2022, a true and correct copy of this document was served via the Court's CM/ECF system on all parties requesting such service in this case and by direct email on Mr. Dondero.

/s/ Bryan C. Assink

Bryan C. Assink

**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.	§	

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

**ORDER GRANTING UNOPPOSED MOTION TO
WITHDRAW AS COUNSEL FOR DEFENDANT JAMES DONDERO**

On this date, the Court considered the *Unopposed Motion to Withdraw as Counsel for Defendant James Dondero* (the “Motion”)¹ filed by John Y. Bonds, III, John T. Wilson IV, Bryan C. Assink, and the firm of Bonds Ellis Eppich Schafer Jones LLP (collectively, the “Firm”), requesting that this Court authorize the Firm to withdraw as counsel for James Dondero (“Mr.

¹ Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Motion.

Dondero”) in the above-captioned adversary proceeding. Upon consideration of the Motion, the Court finds that the Motion is well taken and should be granted. Accordingly, the Court finds that just cause exists for entry of the following order. It is therefore **ORDERED** as follows:

1. The Motion is hereby **GRANTED**.
2. The Firm, including each of its attorneys, are permitted to withdraw as counsel for Mr. Dondero in the above-captioned adversary proceeding and are deemed withdrawn effective as of the entry of this Order.
3. The Clerk of this Court and all parties are directed to remove the Firm and each of the Firm’s attorneys as attorneys for Mr. Dondero on the docket in this case.

End of Order

Order submitted by:

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