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

UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

In re:	§	
	§	
HIGHLAND CAPITAL MANAGEMENT,	§	Chapter 11
L.P.	§	
	§	Case No. 19-34054-sgj11
Debtor.	§	
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HIGHLAND CAPITAL MANAGEMENT,	§	
L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. No. 21-03010-sgj
	§	
HIGHLAND CAPITAL MANAGEMENT	§	
FUND ADVISORS, L.P. and NEXPOINT	§	
ADVISORS, L.P.,	§	
	§	
Defendants.	§	

DEFENDANTS’ AGREED MOTION FOR STAY PENDING APPEAL

TO THE HONORABLE STACEY G.C. JERNIGAN, U.S. BANKRUPTCY JUDGE:

COME NOW NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P. (together, the “Defendants”), the defendants in the above styled and numbered Adversary Proceeding, and file this their *Agreed Motion for Stay Pending Appeal*, respectfully stating as follows:



1. On September 14, 2022, the Court entered its *Judgment* [docket no. 126] (the “Judgment”) against the Defendants and in favor of Highland Capital Management, L.P. (the “Plaintiff”). Among other things, the Judgment awards the Plaintiff money damages of \$840,000.00 against NexPoint Advisors, L.P. and \$1,756,000.00 against Highland Capital Management Fund Advisors, L.P., together with postjudgment interest.

2. On September 20, 2022, the Defendants timely filed their *Joint Notice of Appeal*, thus appealing the Judgment.

3. Because the Judgment is a money judgment, the Defendants have a right to a stay of the Judgment pending appeal, provided that they post sufficient security. *See* Fed. R. Civ. P. 62(b); *Hebert v. Exxon Corp.*, 953 F.2d 936, 938 (5th Cir. 1992) (“This provision of Rule 62 entitles a party appealing a money judgment to an automatic stay upon posting a supersedeas bond”).

4. The Defendants have negotiated a form of agreed order staying the Judgment pending appeal with the Plaintiff, and the Defendants have obtained issuance of supersedeas bonds from the Arch Insurance Company. The bonds include postjudgment interest of two years. Additionally, the parties have agreed that the Defendants would be required to provide additional security, should the stay last for more than eighteen (18) months, equal to twelve (12) months of additional postjudgment interest at the federal postjudgment interest rate in effect on March 14, 2024.

5. Accordingly, the Defendants respectfully request that the Court entered the proposed *Agreed Order Conditionally Staying Judgment Pending Appeal* attached hereto and uploaded concurrently herewith.

RESPECTFULLY SUBMITTED this 7th day of October, 2022.

MUNSCH HARDT KOPF & HARR, P.C.

By: /s/ Davor Rukavina

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this the 7th day of October, 2022, true and correct copies of this document and proposed agreed order were electronically served by the Court's ECF system on all parties entitled to notice thereof, including the Plaintiff, through its counsel of record, including John Morris, Esq.

By: /s/ Davor Rukavina

Davor Rukavina, Esq.

UNITED STATES BANKRUPTCY COURT
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L.P.	§	
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Debtor.	§	
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HIGHLAND CAPITAL MANAGEMENT,	§	
L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. No. 21-03010-sgj
	§	
HIGHLAND CAPITAL MANAGEMENT	§	
FUND ADVISORS, L.P. and NEXPOINT	§	
ADVISORS, L.P.,	§	
	§	
Defendants.	§	

AGREED ORDER CONDITIONALLY STAYING JUDGMENT PENDING APPEAL

CAME ON FOR CONSIDERATION the *Defendants’ Agreed Motion for Stay Pending Appeal* (the “Motion”), filed by NexPoint Advisors, L.P. (“NexPoint”) and Highland Capital Management Fund Advisors, L.P. (“HCMFA,” together with NexPoint, the “Defendants”),

whereby the Defendants seek to stay the collection of the *Judgment* (Adv. Pro. No. 21-03010, Docket No. 126) (the “Judgment”) entered against them in this Adversary Proceeding pursuant to Federal Rule of Civil Procedure 62(b), made applicable through Federal Rule of Bankruptcy Procedure 7062 (“Rule 62”). Having considered the Motion and the agreement of Highland Capital Management, L.P. (the “Plaintiff”) to the relief requested in the Motion, it is hereby:

ORDERED that the Motion is GRANTED as provided for herein; it is further

ORDERED that the Judgment is conditionally stayed as to each Defendant (the “Stay”), provided that each Defendant does one of the following to secure the Judgment (the “Security”) by October 7, 2022: (i) posts, and files on the docket of this Adversary Proceeding, a supersedeas bond with a bona fide, third-party surety naming the Plaintiff as the sole beneficiary, which includes supersedeas bonds from Arch Insurance Company; or (ii) deposits cash into the Registry of the Court, under either scenario in the following amounts:

(a) as to NexPoint, the Judgment amount of \$840,000, plus two years of interest at the Judgment rate (3.48%), or \$58,464, for a total amount of **\$898,464.00**, and

(b) as to HCMFA, , the Judgment amount of \$1,756,000, plus two years of interest at the Judgment rate (3.48%), or \$122,217.60, for a total amount of **\$1,878,217.60**,

provided, however, that, for the Stay to extend past March 14, 2024, then, on or before such date, each of the Defendants shall post additional Security (either through an original or supplemental supersedeas bond or through depositing additional funds) in an amount equal to twelve months’ of additional interest at the federal post-judgment interest rate in effect on March 14, 2024 (the “Additional Security”) and, if the Defendants fail to timely post such Additional Security, then the Stay shall terminate on March 15, 2024 (unless terminated sooner by further order of the Court); it is further

ORDERED that, if either Defendant fails to post the Security by October 7, 2022, then the Stay shall terminate at 12:01 a.m. on October 8, 2022, and the Plaintiff may collect on the Judgment as against the defaulting Defendant(s); it is further

ORDERED that, if the Defendants elect to deposit funds into the Registry of the Court as the Security, the Clerk of the Court is directed to accept such funds into the Registry of the Court and to file on the docket of this Adversary Proceeding one or more receipts evidencing such deposit; it is further

ORDERED that, provided the Defendants otherwise satisfy all requirements for the Stay, the Stay shall continue for fourteen (14) days after the District Court issues its mandate and, if a further appeal is filed to the United States Court of Appeal for the Fifth Circuit, for fourteen (14) days after that court issues its mandate; it is further

ORDERED that the Court shall retain jurisdiction to the maximum extent possible over this Order, including to order the distribution of any funds held in the Registry of the Court, including to the Plaintiff upon the expiration of the Stay, and to compel any surety on a supersedeas bond to pay such bond to the Plaintiff.

END OF ORDER

AGREED:

<p>MUNSCH HARDT KOPF & HARR, P.C.</p> <p>By: <u>/s/ Davor Rukavina</u> Davor Rukavina, Esq. Texas Bar No. 24030781 Julian P. Vasek, Esq. Texas Bar No. 24070790 3800 Ross Tower 500 N. Akard Street Dallas, Texas 75202-2790 Telephone: (214) 855-7500 Facsimile: (214) 978-4375 drukavina@munsch.com jvasek@munsch.com</p> <p>ATTORNEYS FOR NEXPOINT ADVISORS, L.P. AND HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.</p>	<p>PACHULSKI STANG ZIEHL & JONES LLP</p> <p>By: <u>/s/ John A. Morris (w/ permission)</u> Jeffrey N. Pomerantz (CA Bar No. 143717) Ira D. Kharasch (CA Bar No. 109084) John A. Morris (NY Bar No. 266326) Gregory V. Demo (NY Bar No. 5371992) Hayley R. Winograd (NY Bar No. 5612569) 10100 Santa Monica Blvd., 13th Floor Los Angeles, CA 90067 Telephone: (310) 277-6910 Facsimile: (310) 201-0760 Email: jpomerantz@pszjlaw.com ikharasch@pszjlaw.com jmorris@pszjlaw.com gdemo@pszjlaw.com hwinograd@pszjlaw.com</p> <p>ATTORNEYS FOR HIGHLAND CAPITAL MANAGEMENT, L.P.</p>
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