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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Reorganized Debtor.

Chapter 11
Case No. 19-34054-sgj11

MARC S. KIRSCHNER, AS LITIGATION
TRUSTEE OF THE LITIGATION SUB-TRUST,

Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA;
SCOTT ELLINGTON; ISAAC LEVENTON;
GRANT JAMES SCOTT III; STRAND
ADVISORS, INC.; NEXPOINT ADVISORS,
L.P.; HIGHLAND CAPITAL MANAGEMENT
FUND ADVISORS, L.P.; DUGABOY
INVESTMENT TRUST AND NANCY
DONDERO, AS TRUSTEE OF DUGABOY
INVESTMENT TRUST; GET GOOD TRUST
AND GRANT JAMES SCOTT III, AS
TRUSTEE OF GET GOOD TRUST; HUNTER
MOUNTAIN INVESTMENT TRUST; MARK &
PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #1 AND LAWRENCE
TONOMURA AS TRUSTEE OF MARK &
PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #1; MARK & PAMELA
OKADA FAMILY TRUST – EXEMPT TRUST

Adv. Pro. No. 21-03076-sgj

¹ The last four digits of the Reorganized Debtor’s taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor’s headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.



#2 AND LAWRENCE TONOMURA IN HIS CAPACITY AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2; CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND DALLAS FOUNDATION; RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL, LLC; MASSAND CAPITAL, INC.; AND SAS ASSET RECOVERY, LTD.,

Defendants.

**THE LITIGATION TRUSTEE'S
MOTION TO STAY THE ADVERSARY PROCEEDING**

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Marc S. Kirschner (the “Trustee” or “Litigation Trustee”), the Litigation Trustee of the Litigation Sub-Trust established pursuant to the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Bankr. **Dkt. 1808**]² (as amended, the “Plan”), through his undersigned counsel, hereby moves the court for entry of an order under section 105 of title 11 of the United States Code (the “Bankruptcy Code”) to stay the above-captioned adversary proceeding for a period of six months, i.e., through September 30, 2023. In support of this Motion, the Litigation Trustee respectfully states as follows:

PRELIMINARY STATEMENT³

1. The Litigation Trustee filed the above-captioned action (the “Action”) on October 15, 2021. As contemplated by the confirmed Plan, the Action is extensive, asserting claims against a wide array of individuals and entities associated with James Dondero, the founder and longtime dominant operator of Highland Capital Management, L.P. (“HCMLP”) and scores of affiliated entities. All told, the Complaint asserts 36 causes of action against 23 Defendants. The claims all arise from pre-confirmation conduct perpetrated by Dondero and individuals and entities affiliated with him, which resulted in hundreds of millions of dollars in damages to HCMLP.

2. Simultaneous with the prosecution of this Action, the reorganized HCMLP has continued to monetize its assets for the benefit of the Claimant Trust Beneficiaries—again, as contemplated by the Plan—with proceeds to be distributed through the Highland Claimant Trust. To date, those efforts have been successful and meaningful distributions have been made to the Claimant Trust Beneficiaries.

² “Bankr. Dkt.” refers to the docket maintained in Case No. 19-34054-sgj11 (Bankr. N.D. Tex.).

³ All capitalized terms used but not defined in this Preliminary Statement have the meanings given to them below or in the Plan, as applicable.

3. While it remains uncertain whether HCMLP’s Plan will yield sufficient funds to enable the Claimant Trust to pay all expenses, satisfy all indemnification obligations, and pay holders of Class 8 and Class 9 claims in full, Dondero and his affiliates have argued in this and other courts that the value of the Claimant Trust’s assets exceeds the amount needed to pay Claimant Trust Beneficiaries in full such that the Action is a wasteful and unnecessary exercise. For example, in their Valuation Motions—filed ostensibly to obtain information on the value of the Claimant Trust’s assets—The Dugaboy Investment Trust (“Dugaboy”) and Hunter Mountain Investment Trust (“HMIT”) argue that “the combination of cash and other assets held by the Claimant Trust in its own name and held in various funds, reserve accounts, and subsidiaries, if not depleted by unnecessary litigation would be sufficient to pay all Claimant Trust Beneficiaries in full, with interest, now.” Bankr. **Dkt. 3662 at 6-7**. Building on their contention that the value of the Claimant Trust’s assets exceeds the value of the claims, Dugaboy and HMIT assert that the Action is being prosecuted at their expense because, as the residual beneficiaries of the Claimant Trust, they are effectively bearing the cost as any recovery will supposedly go to them. *Id.*

4. While the Litigation Trustee disputes these assertions, he requests—in the interests of judicial economy—that the Court stay this Action until September 30, 2023, and to continue the stay thereafter until one party to the Action provides 30 days’ written notice to all other parties and the Court of their intent to resume the Action (the “Stay Period”). The Stay Period will preserve Claimant Trust assets and enable further consummation of the confirmed Plan, all of which is expected to reduce the uncertainty that exists today.

5. The relief sought directly addresses the concerns set forth in the Valuation Motions (and elsewhere) that this Action is an unnecessary waste of assets. Surprisingly, Defendants have

not agreed to the relief sought herein. Accordingly, the Litigation Trustee is forced to make this motion for a stay, even though the relief being sought is plainly beneficial to all parties.

RELEVANT BACKGROUND

A. THE DEBTOR FILES FOR BANKRUPTCY AND THE LITIGATION SUB-TRUST IS CREATED

6. On October 16, 2019 (the “Petition Date”), HCMLP filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Delaware Bankruptcy Court”). On December 4, 2019, the Delaware Bankruptcy Court entered an order transferring venue of HCMLP’s bankruptcy case to this Court.

7. Shortly after the case was transferred, HCMLP’s committee of unsecured creditors (the “Committee”) informed HCMLP that it intended to seek appointment of a chapter 11 trustee because it did not believe Dondero could act as an estate fiduciary based on his past conduct. To avoid a trustee, Dondero and HCMLP entered into a settlement with the Committee which, among other things, appointed an independent board (the “Independent Board”) to manage the bankruptcy.⁴

8. In August 2020, HCMLP, Dondero, the Committee, and HCMLP’s largest creditors entered into mediation, resulting in settlements with HCMLP’s largest creditors but not a global settlement with Dondero. Thereafter, HCMLP and the Committee began negotiating a plan of reorganization that would monetize HCMLP’s assets and distribute the proceeds to creditors.

9. On February 22, 2021, this Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Bankr. **Dkt. 1943**] (the “Confirmation Order”), which confirmed the Plan

⁴ Bankr. **Docket No. 339** (approving settlement and appointment of Independent Board).

Bankr. **Dkt. No. 1808**. The Plan went effective on August 11, 2021 (the “Effective Date”). Bankr. **Dkt. 2700**. Among other things, the Plan created the Litigation Sub-Trust, as a “sub-trust established within the Claimant Trust or as a wholly-owned subsidiary of the Claimant Trust,” for the purpose of “investigating, litigating, and settling the Estate Claims” transferred to it by the Claimant Trust pursuant to the Plan. Bankr. **Dkt. 1808** ¶¶ 81, 83. Proceeds from the Litigation Trust’s pursuit of claims “shall be distributed . . . to the Claimant Trust for distribution to the Claimant Trust Beneficiaries[.]” *Id.* at 27.

B. THE LITIGATION SUB-TRUST COMMENCES THIS ACTION

10. The Litigation Trustee commenced this Action on October 15, 2021. The Complaint asserts 36 causes of action against 23 Defendants. The Complaint asserts claims for the avoidance and recovery of intentional and constructive fraudulent transfers and obligations under sections 544, 548, and 550 of the Bankruptcy Code, illegal distributions under Delaware partnership law, breach of fiduciary duty, declaratory judgment that certain entities are liable for the debts of others by statute or under an alter ego theory, aiding and abetting or knowing participation in breach of fiduciary duty, civil conspiracy, tortious interference with prospective business relations, breach of contract, conversion, unjust enrichment, and disallowance or subordination of claims under sections 502 and 510 of the Bankruptcy Code.

11. While the broad scope of the claims ensured that this would be a substantial litigation, the Defendants in this action have exacerbated the cost by propounding sweeping and unreasonable discovery of HCMLP and third parties, while simultaneously obstructing the Litigation Trustee’s discovery of Defendants. As a result, to date, the Litigation Trustee has reviewed over 700,000 documents and produced 655,432 documents comprising 7,390,270

pages.⁵ Defendants have responded by demanding ever more documents, from more complicated and difficult to search sources,⁶ and have served 45 subpoenas seeking the production of documents from third parties.⁷ Remarkably, Defendants have yet to produce a single document in response to the Litigation Trustee's requests.⁸

C. THE DONDERO PARTIES COMPLAIN ABOUT THE COSTS OF THIS ACTION AND CONTEND IT IS UNNECESSARY

12. On June 30, 2022, Dugaboy filed a *Motion for Determination of the Value of the Estate and Assets Held by the Claimant Trust* [Bankr. [Dkt. 3382](#)] (the "First Valuation Motion"), seeking a valuation of the Claimant Trust's assets. This Court denied the First Valuation Motion as procedurally improper on December 7, 2022. Bankr. [Dkt. 3645](#). Accordingly, on February 6, 2023, Dugaboy and HMIT filed a *Motion for Leave to File Proceeding* [Bankr. [Dkt. 3662](#)] (the "Second Valuation Motion," and together with the First Valuation Motion, the "Valuation Motions"), this time making baseless allegations against HCMLP, the Claimant Trust, and their fiduciaries and professionals, and seeking leave to file an Adversary Proceeding seeking information concerning the Claimant Trust.

⁵ See Appendix Ex. A - Loigman Decl. ¶ 2.

⁶ After the Litigation Trustee agreed to produce over 859 prepetition emails and attachments, Defendants demanded an even more expansive search into every single non-e-mail system the debtor had used in the past ten years, without any regard as to whether those sources would duplicate the pre-petition email results. Specifically, Defendants made over 95 additional requests, spanning from requesting "[a]ll documents from 1/1/2009 through 10/15/2019 maintained locally on the computers issued to" twenty-two different custodians; "all documents" found within debtor's entire executive accounting drive, and full folder contents for any folder in the debtor's entire shared drive in which "[a]ny document" hit on certain key words in the title. See Appendix Ex. C (Annex A to Defendants' March 13, 2023 Letter to Plaintiff, rows 9, 22, 44).

⁷ See Dkts. 194, 233-261, 278-82, 294-96, 305-08, 311-13, 316.

⁸ In fact, to date, not a single Defendant has even provided a complete hit report in response to search terms that the Litigation Trustee sent *over four months ago*, on December 13, 2022. See Appendix Ex. A - Loigman Decl. ¶ 3. Counsel to NexPoint and HCMFA provided a partial hit report on March 13, 2023. *Id.*

13. In the Valuation Motions, Dugaboy and HMIT assert that they have residual contingent interests in the Claimant Trust because they hold unvested, contingent trust interests.⁹ Dugaboy and HMIT further assert that the Claimant Trust has sufficient assets to pay all current Claimant Trust Beneficiaries in full and that they are thus somehow in the money (notwithstanding that that is not how the Plan works). Finally, Dugaboy and HMIT assert that protections are necessary to preserve the Claimant Trust’s assets and that continued prosecution of this Action “threatens to depress the value of the Claimant Trust” (*Id.* at ¶ 18) and diminish the value of their contingent, residual interests.

14. This is not the first time the Dondero Parties have complained about the cost of this Action and contended that it is unnecessary since the value of the Claimant Trust’s assets supposedly exceed the value of the Claimant Trust Beneficiaries’ interests.¹⁰

15. While reserving the Claimant Trusts’ rights to contest the Dondero Parties’ assertions, the Litigation Trustee believes it would be prudent to stay the Action during the Stay Period to allow assets to be monetized pursuant to the Plan while conserving resources for all parties and third parties. And, while the Defendants have not consented to this relief, it is astounding that they would contest it because it directly addresses the concerns set forth in the Valuation Motions. Accordingly, the Litigation Trustee respectfully requests that this Court stay proceedings in this Action for six months until September 30, 2023, and to continue the stay thereafter until one party to the Action provides 30 days’ written notice to all other parties and the Court of their intent to resume the Action.

⁹ Dugaboy and HMIT were members of Class 10 and Class 11 under the Plan, but they will receive no interest or rights in the Claimant Trust unless and until all senior classes have been paid in full with interest, all disputed claims have been resolved, and the Claimant Trustee has filed a certificate with this Court. Bankr. [Dkt. 1943](#) ¶ 60b.

¹⁰ See, e.g. *Reply Brief of Appellant, The Dugaboy Investment Trust*, Case No. 22-10831, Document No. 00516578672 at 9 (5th Cir. Dec. 14, 2022) (“[T]he Kirschner litigation continues to this day to erode the value of the estate, which most significantly impacts” Dugaboy’s and HMIT’s pecuniary interests).

ARGUMENT

16. Pursuant to section 105(a) of the Bankruptcy Code, the Court “may issue any order . . . that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].”

11 U.S.C. § 105(a). Moreover, the Supreme Court has held:

[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.

Landis v. N. Am. Co., **299 U.S. 248, 254-55** (1936). This Court possesses broad discretion to grant stays, particularly where doing so is unlikely to cause harm to any other party. *See, e.g., Fishman Jackson PLLC v. Israely*, **180 F. Supp. 3d 476, 483** (N.D. Tex. 2016) (“Courts have ‘broad’ discretion to grant stay[s] . . . especially when there is not a ‘fair possibility’ that the stay ‘will work damage to someone else.’”); *In re Ramu Corp.*, **903 F.2d 312, 318** (5th Cir. 1990) (“The stay of a pending matter is ordinarily within the trial court’s wide discretion to control the course of litigation This authority has been held to provide the court the ‘general discretionary power to stay proceedings before it in control of its docket and in the interests of justice.’” (internal citations omitted)).

17. While stays should “not be immoderate or of an indefinite duration,” *Fishman*, **180 F. Supp. 3d at 483**, courts routinely grant stays of six months where doing so promotes judicial efficiency. *See, e.g., 14th St. Props., LLC v. S. Fid. Ins. Co.*, No. CV 22-1593, **2023 WL 416317**, at *1 (E.D. La. Jan. 26, 2023) (granting stay and administratively closing matter for six months due to state insolvency proceedings); *Integrated Claims Sys., LLC v. Old Glory Ins. Co.*, No. 2:15-CV-00412-JRG, **2020 WL 1027771**, at *1 (E.D. Tex. Mar. 3, 2020) (granting motion to stay for six months); *Cleveland Air Serv., Inc. v. Pratt & Whitney Canada*, No. 4:13-CV-161-DMB-DAS, **2016 WL 4179987**, at *2 n.3 (N.D. Miss. Aug. 5, 2016) (staying discovery for six months); *Maples*

v. Donzinger, No. CIV.A. 13-223, [2014 WL 688965](#), at *2 (E.D. La. Feb. 21, 2014) (granting a six month stay). Courts have also granted stays which may only be lifted by the parties after a determined time. *See, e.g., Scarborough v. Integricert, LLC*, No. 6-12-CV-00396, [2014 WL 12662272](#), at *3 (W.D. La. Apr. 4, 2014) (“Lastly, this Court’s intention is not to stay the case for an indefinite period. To the contrary, the Court will issue a stay for a period of one-hundred and twenty days, at the end of which, either party may move to lift the stay upon a showing of good cause. Thus, the stay will not last for an ‘indefinite’ period such as Scarborough fears.”).

18. Here, the Action should be stayed in the interests of judicial economy and efficiency and in the interests of the recipients of the 45 third-party subpoenas served by Defendants, the Litigation Sub-Trust, the Claimant Trust, and even the Defendants—two of whom (Dugaboy and HMIT) have actually advocated for the relief requested herein. A grant of the requested stay will enable HCMLP to focus on executing its Plan without incurring further expenses on this litigation, which, as explained above, have been exacerbated by Defendants’ litigation tactics. *See In re Janes*, No. 92-2712-BKC-3P7, [1993 WL 476493](#), at *4 (Bankr. M.D. Fla. Nov. 8, 1993) (granting “Defendant’s motion to stay adversary proceeding,” and noting that “one of the goals of the code is maximization of assets available in the estate to pay creditors”). The result is a conservation of HCMLP and Claimant Trust funds, while maintaining the Litigation Trustee’s flexibility to pursue the claims in this Action should it be necessary in order to satisfy the Claimant Trust’s obligations.

19. A stay would also promote judicial efficiency because pursuit of this litigation *may* prove unnecessary, in which case the Court would be spared the burden of further adjudicating this Action.

20. Finally, a stay will benefit Defendants, not harm them—as their own repeated complaints demonstrate. Like the Claimant Trust, Defendants can defer extensive litigation expenses during the Stay Period, and perhaps permanently, depending on the results of the monetization of HCMLP’s remaining assets and the satisfaction of indemnification obligations. Moreover, staying this case addresses the very issue Defendants raise in their Valuation Motions; namely, purported depletion of Claimant Trust assets through the burden of litigation expenses.

21. In sum, the Stay Period—which is neither “immoderate” nor “of an indefinite duration”—falls within this Court’s broad discretion. *Fishman*, 180 F. Supp. 3d at 483; *see also McKnight v. Blanchard*, 667 F.2d 477, 479 (5th Cir. 1982) (vacating indefinite stay that could last for seven years or longer where trial court “gave no reason for such a protracted stay”). The requested stay squarely serves the interests of judicial economy, ensures efficient management of this adversary proceeding, and is in the best interests of the parties to this Action and the Claimant Trust Beneficiaries.

CONCLUSION

22. For the foregoing reasons, the Trustee respectfully requests that the Court grant an Order staying all proceedings in the Action through the Stay Period.

Dated: March 24, 2023

Respectfully submitted,

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/s/ Paige Holden Montgomery

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*Counsel for Marc S. Kirschner, as Litigation
Trustee of the Highland Litigation Sub-Trust*

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies, that on Thursday, March 23, 2023, counsel for the Litigation Trustee corresponded with counsel for Defendants regarding the relief requested in the foregoing motion. Defendants did not provide a response indicating whether or not they would agree to the motion, so this Motion is submitted as being **OPPOSED**.

/s/ Robert S. Loigman

Robert S. Loigman

CERTIFICATE OF SERVICE

The undersigned hereby certifies, that on this 24th day of March 2023, the undersigned caused to be served a true and correct copy of the *Litigation Trustee's Motion To Stay The Adversary Proceeding*, by electronically filing it with the Court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

/s/ Paige Holden Montgomery
Paige Holden Montgomery

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**UNITED STATES BANKRUPTCY COURT
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In re:

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Reorganized Debtor.

Chapter 11

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¹ The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #1; MARK & PAMELA
OKADA FAMILY TRUST – EXEMPT TRUST
#2 AND LAWRENCE TONOMURA IN HIS
CAPACITY AS TRUSTEE OF MARK &
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EXEMPT TRUST #2; CLO HOLDCO, LTD.;
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CHARITABLE DAF FUND, LP.; HIGHLAND
DALLAS FOUNDATION; RAND PE FUND I,
LP, SERIES 1; MASSAND CAPITAL, LLC;
MASSAND CAPITAL, INC.; AND SAS ASSET
RECOVERY, LTD.,

Defendants.

**APPENDIX IN SUPPORT OF THE LITIGATION TRUSTEE’S
MOTION TO STAY THE ADVERSARY PROCEEDING**

Pursuant to Local Bankruptcy Rule 7007-1(g), Marc S. Kirschner (the “Trustee” or “Litigation Trustee”), the Litigation Trustee of the Litigation Sub-Trust established pursuant to the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* (as amended, the “Plan”), submits the following evidence corresponding to the Motion to Stay the Adversary Proceeding.

APP. #	EX.	DESCRIPTION
001-005	A	Declaration of Robert S. Loigman in Support of the Litigation Trustee’s Motion to Stay the Adversary
006-011	B	Defendants’ March 13, 2023 letter to the Litigation Trustee regarding non-email requests
012-027	C	Excerpt from letter attachments (Annex A)

Dated: March 24, 2023

Respectfully submitted,

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*Counsel for Marc S. Kirschner, as Litigation
Trustee of the Highland Litigation Sub-Trust*

CERTIFICATE OF SERVICE

The undersigned hereby certifies, that on this 24th day of March 2023, the undersigned caused to be served a true and correct copy of the *Appendix in Support of the Litigation Trustee's Motion to Stay the Adversary Proceeding* by electronically filing it with the Court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

/s/ Paige Holden Montgomery
Paige Holden Montgomery

EXHIBIT A

QUINN EMANUEL URQUHART & SULLIVAN LLP

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Case No. 19-34054-sgj11

Adv. Pro. No. 21-03076-sgj

¹ The last four digits of the Reorganized Debtor’s taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor’s headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

OKADA FAMILY TRUST – EXEMPT TRUST #2 AND LAWRENCE TONOMURA IN HIS CAPACITY AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2; CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND DALLAS FOUNDATION; RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL, LLC; MASSAND CAPITAL, INC.; AND SAS ASSET RECOVERY, LTD.,

Defendants.

**DECLARATION OF ROBERT S. LOIGMAN IN SUPPORT OF THE LITIGATION
TRUSTEE’S MOTION TO STAY THE ADVERSARY PROCEEDING**

I, Robert S. Loigman, hereby state as follows:

1. I am a partner with the law firm Quinn Emanuel Urquhart & Sullivan, LLP, counsel for Marc S. Kirschner, as Litigation Trustee of the Litigation Sub-Trust (the “Litigation Trustee”) in the above-captioned action. I submit this declaration in support of the Litigation Trustee’s Motion To Stay The Adversary Proceeding. I have personal knowledge of the matters set forth in this declaration based upon my involvement in this case and a review of the file.

2. To date, the Trustee has reviewed over 700,000 documents, and produced 655,432 documents comprising 7,390,270 total pages.

3. The Trustee sent Defendants a proposed list of search terms for them to run on their electronically stored information on December 13, 2022. To date, no Defendant has produced a complete hit report in response to those search terms. Counsel to NexPoint and HCMFA produced a partial hit report on March 13, 2023.

4. Attached to the Appendix in Support of the Litigation Trustee’s Motion to Stay the Adversary Proceeding as Exhibit B is a true and correct copy of Defendants’ March 13, 2023 letter to the Litigation Trustee regarding non-email requests.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this March 24, 2023 at New York, New York.

/s/ Robert S. Loigman

Robert S. Loigman

CERTIFICATE OF SERVICE

The undersigned hereby certifies, that on this 24th day of March 2023, the undersigned caused to be served a true and correct copy of the *Litigation Trustee's Motion To Stay The Adversary Proceeding*, by electronically filing it with the Court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

/s/ Paige Holden Montgomery
Paige Holden Montgomery

EXHIBIT B



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San Francisco
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Sao Paulo**
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Toronto
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* Associated Firm
** In cooperation with
Trench, Rossi e Watanabe
Advogados

March 13, 2023

Deborah J. Newman
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010

By email
deborahnewman@quinnemanuel.com

Re: Kirschner v. Dondero et al., Adv. Pro. No. 21-03076-sgj

Dear Debbie:

We write on behalf of Defendants copied below in response to your email of January 18, 2023 setting forth Plaintiff's updated positions regarding document production from non-email sources identified in Defendants' letters of May 3, 2022, June 10, 2022, and November 9, 2022 for documents responsive to Defendants' Omnibus First Set of Requests for Production of Documents to Plaintiff served on February 11, 2022.

For all active requests, Defendants have included specific responses in Column N of an updated version of the Annex A Excel spreadsheet tracker previously attached to Defendants' letter of November 9, 2022. The status of active requests is summarized in the table below.

Status of Active Requests	#	Request Numbers
Agreed	31	Requests 2, 11, 12, 13, 14, 15, 16, 17, 18, 23, 26, 27, 28, 39, 40, 41, 42, 43, 44, 45, 46, 47, 62, 65, 66, 67, 69, 80, 81, 82, 83
Agreed, subject to further clarification of the Litigation Trustee's position	2	Requests 61, 64
Further clarification needed to confirm the Litigation Trustee's position	29	Requests 1, 3, 4, 6, 19, 20, 21, 24, 25, 29, 30, 33, 35, 36, 37, 38, 48, 52, 53, 54, 55, 58, 60, 68, 72, 75, 79, 92, 94
Refused by the Litigation Trustee	21	Requests 7, 8, 22, 31, 32, 34, 49, 50, 56, 57, 63, 70, 71, 73, 74, 77, 86, 87, 88, 89, 95
No response from the Litigation Trustee since request was made in May 2022	2	Requests 9, 76

A. Requests Agreed

As summarized in the table above, Defendants noted that agreement has been reached (or is expected to be reached subject to minor clarifications) on 33 requests. Fourteen of these requests were agreed five or more months ago, and the remainder were agreed more than two months ago, as of the Litigation Trustee's December 21, 2023 response. With respect to each request, please confirm within one week of this letter (1)



whether such documents were included in the Litigation Trustee's initial rolling production of February 13, 2023, (2) if so, whether the document production for the request is complete, and (3) if not, the final production date for the documents.

B. Requests Requiring Further Clarification of the Litigation Trustee's Position on Production

Unfortunately, however, a majority of requests still remain in contention. Despite Defendants' previous requests for clarification during the December 16 meet and confer and further detailed in Defendants' email of December 21, the Litigation Trustee's responses on 29 requests require further clarification of the Litigation Trustee's position. In most of these instances, the Litigation Trustee's responses were too vague or non-responsive for Defendants to understand which sources and documents the Litigation Trustee is and is not agreeing to search for and produce.

For instance, for many requests, the Litigation Trustee fails to confirm whether or not it is agreeing to search the specific source identified in the request, instead noting that "documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier"--usually, the "G-Drive," which was a general shared drive at HCMLP and, in many instances, not the best or most complete, reliable repository for the requested documents. This type of vague response fails to identify what is and is not being included in the Litigation Trustee's search methodology and production. Moreover, the Litigation Trustee provides no basis to conclude that the documents found in the specified source will be entirely duplicative of those found in the Litigation Trustee's substitute source. Indeed, the Litigation Trustee has given no indication of whether it has conducted any inquiry into these sources sufficient to inform its position. Defendants, in contrast, have expounded on the nature of these sources at some length in the various responses collated in Annex A, but has been met with no substantive response by the Litigation Trustee. Based on Defendants' knowledge of the documents maintained by HCMLP in the ordinary course of business, each of the specific non-email sources requested in Annex A was included *precisely because* it contains unique information that is not "unreasonably cumulative or duplicative" and cannot "be obtained from some other source that is more convenient." **Fed. R. Civ. P. 26(b)(2)(C)(i)**. The Litigation Trustee therefore has a duty to conduct a reasonable search of these sources.¹

¹ *Kunze v. Baylor Scott & White Health*, 2021 U.S. Dist. LEXIS 202938, at 10 (N.D. Tex. 2021) (requests for potentially overlapping documents not duplicative because each would "likely contain information that would not be found" in the other); see also *June Med. Servs., LLC v. Gee*, 2018 U.S. Dist. LEXIS 181337 (M.D. La. 2018) (granting motion to compel and ordering party to certify that search of additional sources would return duplicative information). Defendants further note that the Litigation Trustee has not argued or made any showing that any of the requested sources are "not reasonably accessible" under the standard set out in Rule 26(b)(2)(B).



With respect to these 29 requests, it is imperative that the Litigation Trustee clarify its position so that Defendants may determine whether or not court intervention is required. In an effort to aid the Litigation Trustee in identifying specific sources of relevant documents, Defendants have gone to great lengths to provide very detailed explanations of the sources (often down to specific folder paths) as well as the relevance of each source and the types of documents contained. As the Litigation Trustee has had many months to consider these specific requests, it should have no difficulty in providing a clear position. Please provide the requested responses no later than one week from receipt of this letter.

C. Requests Refused by the Litigation Trustee

The Litigation Trustee appears to be refusing to search for or produce any documents with respect to a further 21 active non-email requests. For 17 of these requests (Nos. 22, 31, 32, 34, 49, 50, 56, 57, 63, 73, 74, 77, 85, 86, 87, 88, 95), the Litigation Trustee continues to provide only the barest of boilerplate reasons for its position, stating only that it “objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and seeking documents not relevant to any party's claims or defenses, and will not produce” (or a nearly identical statement) for each request. This is not, as the Litigation Trustee contends, objecting “with particularity.”

Since the Litigation Trustee’s email of December 21 professed not to be aware of the wealth of case law in this district prohibiting such conduct, Defendants will briefly reiterate the explanation and case law previously provided in their November 9 letter and referenced in our last meet and confer. Boilerplate objections of the type asserted by the Litigation Trustee,² unsupported by any “particularized facts” revealing the nature of the burden or reason for the objection, are not permitted in this district.³ For instance, with respect to an objection that a request is overly broad or unduly burdensome,

² Such generalized and boilerplate responses are found both in the Litigation Trustee’s responses and objections to Defendants’ Omnibus First Set of Requests for Production of Documents to Plaintiff, as well as in the Litigation Trustee’s responses to Defendants’ specific follow-up requests regarding non-email sources (collated in Annex A).
³ *Heller v. City of Dallas*, 303 F.R.D. 466, 490-491 (N.D. Tex. 2014); *Orchestratshr, Inc. v. Trombetta*, No. 3:13-CV-2110-P, 2015 U.S. Dist. LEXIS 179784, at *23 (N.D. Tex. 2015) (“generic objections violate the Federal Rules of Civil Procedure and are invalid even where they reference a particular document request because, even then, they are merely boilerplate or unsupported”); *Samsung Elecs. Am., Inc. v. Chung*, 321 F.R.D. 250, 281-283 (N.D. Tex. 2017) (“general or boilerplate objections are invalid . . . and the responding party has the obligation to explain and support its objections”); *Lopez v. Don Herring Ltd.*, 327 F.R.D. 567 (N.D. Tex. 2018) (overruling numerous discovery objections as “unsupported and unsustainable boilerplate” and granting motion to compel); *Baker v. Walters*, No. , 2023 U.S. Dist. LEXIS 13303, at *20-26 (N.D. Tex., Jan. 26, 2023) (granting motion to compel after finding that discovery objections similar to the Litigation Trustee’s “are all unsupported boilerplate and are invalid based on . . . failing to make the objections with specificity and to explain and support their objections”) (internal marks and citation omitted).



[a] party resisting discovery must show specifically how each . . . document request is overly broad, unduly burdensome, or oppressive. . . . Failing to do so, as a general matter, makes such an unsupported objection nothing more than unsustainable boilerplate. . . . [I]t would be difficult to dispute the notion that the very act of making such boilerplate objections is *prima facie* evidence of a Rule 26(g) violation, because if the lawyer had paused, made a reasonable inquiry, and discovered facts that demonstrated the burdensomeness or excessive cost of the discovery request, he or she should have disclosed them in the objection, as both Rule 33 and 34 responses must state objections with particularity, on pain of waiver.⁴

The repeated refusal, over the course of many months, to provide virtually any facts that would explain the basis for the Litigation Trustee’s objections has stymied Defendants’ effort to meaningfully engage on these specific non-email requests over these past many months. As noted in Column N, Defendants therefore simply ask the Litigation Trust to confirm that it is standing on its objections, such as they are, and will refuse to search for and produce documents with respect to the 21 requests noted above. With respect to 11 of these requests (Nos. 7, 8, 22, 34, 56, 73, 85, 86, 87, 88), Defendants have revised the request as indicated in Column N and therefore also request an updated position from the Litigation Trustee. If Defendants do not receive a response within one week from the date of this letter, it will treat the Litigation Trustee’s silence as a final refusal on these 21 requests.

D. Requests Not Answered for Over Ten Months

Finally, the Litigation Trustee has failed to provide any substantive response whatsoever to Requests 9 and 76, despite the fact that Defendants first made these requests over ten months ago, in a May 3, 2022 letter. Request 9 concerns electronic documents stored on computers used for business purposes by key custodians in this case. Request 76 requests a discrete set of production logs further identified by the likely document format, drive location, and author. These are not difficult requests, yet as of its January 18, 2023 update, the Litigation Trustee’s responses are still “under investigation.” Please confirm the result of the Litigation Trustee’s investigation, whether the Litigation Trustee will agree to search for and produce the documents, and, if not the basis for non-production, no later than one week following receipt of this letter.

Defendants reserve all rights.

⁴ *Heller*, 303 F.R.D. at 490-91 (internal marks and citations omitted).



Regards,

/s/ Michelle Hartmann

Michelle Hartmann
Partner

+1 214 978 3421
Michelle.Hartmann@bakermckenzie.com

Cc: Amy Ruhland
Brian Glueckstein
Deborah Deitsch-Perez
Louis Phillips

EXHIBIT C

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
1	Solvency	Accounting Systems	A list of HCMLP affiliates whose accounting was conducted in Oracle, QuickBooks, and/or Geneva systems, including: (a) Oracle—list of companies and associated company codes; (b) QuickBooks—file names of all .qbw files saved on the G-Drive; and (c) Geneva—list of portfolios.	5/3/22 Letter	Objected to the production without search terms of "the complete records of HCMLP's accounting, payroll, tax, and investment tracking systems"; "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain non-duplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case."	5/24/22 M&C 6/14/22 Letter	N	Pursue original request	Defendants' request does not request "the complete records of HCMLP's accounting, payroll, tax, and investment tracking systems" as the Trustee objected. Rather, this search specifically requests a list of the accounting systems used by each entity so that targeted requests may be formulated.	The Trustee will produce documents relevant to a solvency analysis that are reasonable and proportionate to the needs of the case.	Source Clarification Requested	These documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier. The Trustee will produce documents from the G-Drive or Oracle.	Defendants seek limited information required to confirm which accounting systems were used by which HCMLP affiliates. It is not sufficiently clear whether the Litigation Trustee agrees to provide the requested information for Oracle and QuickBooks. Defendants reserve rights on this portion of the request pending review of the production regarding these sources. Please confirm by stating "Yes" or "No": Does the Litigation Trustee refuse to search for and produce a list of HCMLP affiliates whose accounting was conducted in the Geneva system, as well as the list of portfolios in Geneva? If they answer is "Yes," please also confirm whether the Litigation Trustee has preserved Geneva system data. Additionally, please confirm by stating "Yes" or "No": Does the Litigation Trustee refuse to search for and produce a list of HCMLP affiliates whose accounting was conducted using the Oracle and/or Quickbooks programs?	Further clarification needed on LT production position
2	Solvency	Access	Documents for tax years 2009-2019], identified via the following methodology: Login to CCH Access, go to documents, and search by "Clients." Search for HCMLP or Highland Capital Management. Produce the contents of any folders specific to HCMLP, Strand, or Strand Advisors (including, but not limited to, the folder for each tax year from 2009 to 2019).]* *bracketed portion added 6/10	5/3/22 Letter 6/10/22 Letter	6/14/22 - Objected to the production without search terms of "the complete records of HCMLP's accounting, payroll, tax, and investment tracking systems"; "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain non-duplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case." 7/6/22 - Using Defendants' search methodology, the Litigation Trustee will identify and produce relevant tax returns for HCMLP or Strand Advisors, Inc. from 2010 to 2019. 10/12/22 - The Trustee was able to locate tax returns for HCMLP or Strand Advisors, Inc. from 2010 to 2019 and agrees to produce them.	5/24/22 M&C 6/14/22 Letter 7/6/22 Letter 10/12/22 Letter	Y/P	Request agreed	Please provide the timing for the production of the agreed upon documents. Defendants request production of such documents no later than November 21, 2022.		Agreed	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed	
3	NPA/HCMA Claims	Box	Any folders specific to HCMA, HFAM or Pyxis Capital.	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue original request	Box is the location of the audit file for these entities. The audit files includes the audits, draft audits, memos, letters and comments prepared as part of the audit process, the documents provided to the auditors as audit support and the auditors' responses to such documents. The Box locations only contain the audit files. As the Trustee claims that all of the revenue of these companies constitutes damages, then Defendant is entitled to the files. Additionally, at most, these would constitute the files of NPA/HCMA that should have been provided when the companies separated.	The Trustee will produce documents sufficient to show the revenues and source of revenues for HCMA, HFAM, and Pyxis Capital.	Source Clarification Requested	These documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier. Specifically, it is the Trustee's understanding that materials in Box are duplicative of the G-Drive.	The Litigation Trustee's agreement to produce only documents "sufficient to show" revenue and sources of revenue is inadequate and vague. The request is for all audit-related documents for these entities, including the audits, draft audits, memos, letters and comments prepared as part of the audit process, the documents provided to the auditors as audit support and the auditors' responses to such documents, as such documents are relevant to the claims and defenses in the litigation. Defendants disagree that the materials in Box are duplicative of the "G-Drive." As previously stated, Box was the designated repository for housing the complete set of audit files for these entities and is the more reliable source. All information on Box for folders named for these entities is likely to be responsive as Box only contains audit-related documents, reducing the burden to sift out non-responsive information both for the Litigation Trustee in gathering documents and for Defendants in reviewing them. By contrast, any audit-related information that happened to be stored on the G-Drive is likely less complete, more likely to have been modified or deleted over time, and will no doubt have different metadata. Please confirm by stating "Yes" or "No": Does the Litigation Trustee refuse to search for and produce audit-related documents from Box folders specific to HCMA, HFAM, and Pyxis Capital?	Further clarification needed on LT production position
4	Solvency	Box	Account data for audit years 2009-2019	5/3/22 Letter	Objected to the production without search terms of "the complete records of HCMLP's accounting, payroll, tax, and investment tracking systems"; "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain non-duplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case."	5/24/22 M&C 6/14/22 Letter	N	Pursue modified request	Box is the location of the audit file for HCMLP, Strand, and other entities. All Box data should be produced for HCMLP and Strand for audit years 2009 - 2019.	The Trustee will produce audit documents sufficient to show revenues and sources of revenue for HCMLP and Strand, such as audited financial statements.	Source Clarification Requested	These documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier. Specifically, it is the Trustee's understanding that materials in Box are duplicative of the G-Drive.	The Litigation Trustee's agreement to produce only documents "sufficient to show" revenue and sources of revenue is inadequate and vague. The request is for all audit-related documents for these entities, including the audits, draft audits, memos, letters and comments prepared as part of the audit process, the documents provided to the auditors as audit support and the auditors' responses to such documents, as such documents are relevant to the claims and defenses in the litigation. Defendants disagree that the materials in Box are duplicative of the "G-Drive." As previously stated, Box was the designated repository for housing the complete set of audit files for these entities and is the more reliable source. All information on Box for folders named for these entities is likely to be responsive as Box only contains audit-related documents, reducing the burden to sift out non-responsive information both for Trustee in gathering documents and for Defendants in reviewing them. By contrast, any audit-related information that happened to be stored on the G-Drive is likely less complete, more likely to have been modified or deleted over time, and will no doubt have different metadata. Please confirm by stating "Yes" or "No": Does the Litigation Trustee refuse to search for and produce audit-related documents from Box folders specific to HCMLP and Strand for audit years 2009-2019?	Further clarification needed on LT production position
5	N/A	ClearPar	All documents related to any trade of any asset that Plaintiff alleges was fraudulently transferred.	6/10/22 Letter	7/6/22 - The Litigation Trustee is in the process of evaluating whether ClearPar is an appropriate and non-duplicative document source.	7/6/22 Letter 7/22/22 M&C 10/12/22 Letter	N	Request withdrawn	N/A					N/A (withdrawn)
6	Unjust Enrichment/Preference Payments Claims	Concur	All system entries and expense reports (including supporting data) for Jim Dondero, Mark Okada, Scott Ellington, or Isaac Leventon (during any time period that Plaintiff contends is within the statute of limitations). *time period parenthetical was added on 6/10/22	5/3/22 Letter 6/10/22 Letter	6/14/22 - Generally objected to all 5/3 requests as overbroad. 7/6/22 - Using Defendants' search methodology, the Litigation Trustee will identify and produce relevant system entries and expense reports (including supporting data) for the Alleged Expense Transfers and the March 28, 2019 Repayment Transfer specified in the Litigation Trustee's Amended Complaint. 10/12/22 - The Trustee agreed to produce Concur reports and supporting documents for the One-Year Transfers, as defined and alleged in the Complaint, but the One Year Transfers do not appear in Concur. The Trustee has prepared and will produce a spreadsheet of the expenses for Dondero and Ellington that appear in Concur. However, because supporting documentation is burdensome to generate in Concur, and the reported expenses are not the One	5/24/22 M&C 6/14/22 Letter 7/6/22 Letter 10/12/22 Letter	Y/P	Pursue original request	The Defendants understand that for all pre-bankruptcy time periods, Concur was the system utilized for Debtor employee expense reimbursements. Expenses would be submitted through Concur, including uploading the receipts in support of such expenses. Presumably, this would include the One Year Transfers referenced in the Amended Complaint. To the extent that the Trustee asserts this is not correct, Defendants would request a certification under oath. With respect to the spreadsheet prepared by the Trustee, please identify and produce the source of such spreadsheet data. With respect to the supporting documentation in Concur, notwithstanding the alleged burden on producing such documentation, the Trustee alleges that ALL of the expense reimbursements submitted by Defendants, Dondero and Ellington are	The Trustee will produce the supporting documents for the expense reimbursements challenged in the Amended Complaint.	Source Clarification Requested	The Trustee will produce supporting documents for the expense reimbursements challenged in the Amended Complaint, to the extent it is available in Concur. The Trustee understands that certain reimbursements may be located outside of Concur and is in the process of locating the source for those documents.	Defendants request all system entries and expense reports for Dondero, Okada, Ellington and Leventon for the relevant time period, not just the challenged reimbursements. This information is relevant to Defendants' defenses as it will allow Defendants to compare allegedly tortious and non-tortious reimbursements. Please confirm by stating "Yes" or "No": Does the Litigation Trustee refuse to produce documents for reimbursements other than the challenged reimbursements? Please also confirm the sources, if any, that the Litigation Trustee is searching other than Concur for the expense reports and expense support for Defendants Dondero, Okada, Ellington, and Leventon.	Further clarification needed on LT production position

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
7	Breach of Fiduciary Duty re UBS/Sentinel	Discovery Assistant	All native and production files from any cases in ImageMaker Discovery Assistant for any case created after 10/15/2019.	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue original request	This is the most complete, readily accessible repository of HCMLP documents gathered by persons with knowledge in response to the Committee's requests. This is the least burdensome mechanism to provide most of the responsive categories of documents. If you cannot produce this, then please provide the list of Committee searches, the documents produced in response to each, and we can select the ones we believe are relevant. This will save the time and effort to regather the documents, plus will ensure that the original collection was by persons with knowledge, rather than post-effective date professionals with no personal	The Litigation Trustee is investigating its ability to respond to this request in a reasonable and proportionate manner and will provide a further response as soon as he is able.	RUI	The Litigation Trustee objects to this request as seeking information protected by, among other things, work product protection. To the extent this request seeks any non-privileged information, such information will be produced in response to other requests. The Litigation Trustee will not produce any documents in response to this request.	The Litigation Trustee's response is contradictory and vague, as it is impossible to understand what information it purports to withhold or produce. Defendants seek factual documents produced in discovery to the UCC that are potentially relevant to the allegations asserted in this case. Such documents are not shielded by Work Product protection merely because they were produced. Indeed, as stated in the November 9 response, Defendants believe this repository is the least burdensome way for the Litigation Trustee to access relevant documents. Nevertheless, Defendants are willing to address the Litigation Trustee's concerns about burden by further limiting its request to documents related to (1) the UBS Liability, (2) Sentinel Transaction, (3) CDO Fund, (4) HFP (and all of its subsidiaries, including SOHC and CDO Holdco). Please confirm by stating "Yes" or "No": does the Litigation Trustee refuse to produce documents in response to this modified request?	Refused
8	Breach of Fiduciary Duty re UBS/Sentinel	Discovery Assistant	A List of case names and dates that cases were opened	5/3/22 Letter	Generally objected to all 5/3 requests as overbroad.	5/24/22 M&C 6/14/22 Letter	N	Pursue original request	Trustee has objected that a request for all Discovery Assistant files are overly broad. Therefore, Defendants are entitled to the list of such cases (and when they were opened) for the purposes of narrowing Defendant's request for Discovery Assistant documents.	The Litigation Trustee is investigating its ability to respond to this request in a reasonable and proportionate manner and will provide a further response as soon as he is able.	RUI	The Litigation Trustee objects to this request as seeking information protected by, among other things, work product protection. To the extent this request seeks any non-privileged information, such information will be produced in response to other requests. The Litigation Trustee will not produce any documents in response to this request.	The Litigation Trustee's response is contradictory and vague, as it is impossible to understand what information it purports to withhold or produce. Defendants' request does not encompass what information that could be considered as subject to Work Product protection. Nevertheless, in response to the Litigation Trustee's concerns, Defendants further modify the request as follows: For any document productions to the UCC or UBS related to (1) the UBS Liability, (2) Sentinel Transaction, (3) CDO Fund, (4) HFP (and all of its subsidiaries, including SOHC and CDO Holdco), please produce a list or documents sufficient to show the case name in Discovery Assistant, date the case was opened, and a listing of any Bates prefixes used to label documents in such production. Please confirm by stating "Yes" or "No": does the Litigation Trustee refuse to produce documents in response to this modified request?	Refused
9	All claims	Electronic Documents on Computers	All documents from 1/1/2009 through 10/15/2019 maintained locally on the computers issued to or used for business purposes by the following custodians: (a) Paul Broadus (b) Matt DiOrto (c) Jim Dondoro (d) Scott Ellington (e) Katie Irving (f) Isaac Leventon (g) Shawn Raver (h) JP Sevilla (i) Rick Swadley (j) Stephanie Vitello (k) Mark Patrick (l) Frank Waterhouse (m) David Klos (n) Kristin Hendrix (o) Thomas Sargent (p) Vishal Patel (q) Mark Okada (r) Eliason, Hayley (s) Hillis, Blair (t) Wilson, Drew (u) Sullivan, Drew (v) Sullivan, Jourdan	5/3/22 Letter		5/24/22 M&C 6/14/22 Letter	N	Pursue original request	The local C drive and Desktop of the custodians should have been maintained by Debtor. This should not be a significant number of documents because the Debtor had a policy against employees saving documents on local machines. Nonetheless, this policy may not always have been followed and the results may contain relevant and responsive documents. The Trustee has a duty to search that location for documents relevant to any claim. While Defendants requested the entirety of each C-Drive to ease the search burden on the Trustee, if the Trustee determines that it does not want to produce the entire local C Drive of such custodians, then the Trustee has a duty to search such locations for relevant documents.	The Trustee is investigating the burdens associated with producing these documents and whether these drives contain responsive information. The Trustee understands that Drew Sullivan is not an individual, instead being a portmanteau of Drew Wilson and Jourdan Sullivan.	RUI	Defendants first made this request in May 2022 and have received no substantive response from the Litigation Trustee in the intervening 9 months, despite numerous follow ups. Defendants therefore will assume that the Litigation Trustee is refusing to produce documents from the computers of the specified custodians if no response is received in the next week. Further, Defendants have specified in Annex D a list of search terms for the Litigation Trustee to run to identify potentially responsive documents (Columns A and B), and refined the list of custodians (Column D). Please confirm by stating "Yes" or "No": does the Litigation Trustee refuse to produce documents in response to this modified request?	No LT response	
10	Solvency; all fraudulent transfer claims	Electronic Documents on Computers	Work stations: all contents of Corporate Accounting members local work stations (Hayley Eliason, Blair Hillis, David Klos, Drew Sullivan, Jourdan Sullivan, Frank Waterhouse, Drew Wilson).	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	The local C drive and Desktop of the custodians should have been maintained by Debtor. The Trustee has a duty to search that location for documents relevant to any claim. While Defendants requested the entirety of each C-Drive to ease the search burden on the Trustee, if the Trustee determines that it does not want to produce the entire local C Drive of such custodians, then the Trustee has a duty to search such locations for relevant documents.	The Litigation Trustee objects to the request to search "all contents of Corporate Accounting members local work stations" as overly broad, unduly burdensome, disproportionate to the needs of the case, and seeking documents not relevant to any party's claims or defenses, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	Defendants withdraw this request as it has been replaced with Request 9.	N/A (withdrawn)
11	Breach of Fiduciary Duty re Acis/Terry	G-Drive	Under G-Legal, any folder whose title includes the word "Acis" or "Terry"	6/10/22 Letter	7/6/22 - The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time. 10/12/22 - The Trustee stands on his objections that this request is overbroad, unduly burdensome, irrelevant, and/or disproportionate to the needs of the case. Nonetheless, the Trustee has identified these folders and is in the process of exporting and reviewing them, and, subject to his Responses and Objections to Defendants Requests, will produce responsive documents to the extent they can be located and produced without undue burden.	7/6/22 Letter 10/12/22 Letter	Y/P	Request agreed	To the extent that the Trustee withholds any document in this repository on the basis of any objection or claim of privilege, please identify such withheld document.		Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
12	Breach of Fiduciary Duty re Acis/Terry	G-Drive	All copies and drafts of the Acis Transactional Documents ¹	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search for the Acis Transactional Documents and produce nonprivileged documents relevant to claims or defenses in this litigation. 10/12/22 - The Trustee has located these documents and will produce them.	7/6/22 Letter 10/12/22 Letter	Y	Request agreed	Please provide the timing for the production of the agreed upon documents. Defendants request production of such documents no later than November 21, 2022.		Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
13	Breach of Fiduciary Duty	G-Drive	All documents under any folder with a title that includes the word "HarbourVest"	6/10/22 Letter	7/6/22 - The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time. 10/12/22 - The Trustee stands on his objections that this request is overbroad, unduly burdensome, irrelevant, and/or disproportionate to the needs of the case. Nonetheless, the Trustee has identified these folders and is in the process of exporting and reviewing them, and, subject to his Responses and Objections to Defendants Requests, will produce responsive documents to the extent they can be located and produced without undue burden.	7/6/22 Letter 10/12/22 Letter	Y/P	Request agreed	To the extent that the Trustee withholds any document in this repository on the basis of any objection or claim of privilege, please identify such withheld document.		Agreed	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed	
14	Unjust Enrichment/Preference Payments Claims	G-Drive	All documents in the HR or personnel file(s) of the following: Mark Okada, Jim Dondero, Scott Ellington, Isaac Leventon, Patrick Daugherty. As an example, such folders are typically maintained with a naming structure similar to the following: G:\Human Resources\HRPrivate July 2007\Personnel Folders\Employee name), or G:\Human Resources\HRPrivate July 2007\Personnel Folders\HCMLP(Employee name)	6/10/22 Letter	7/6/22 - The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time. 10/12/22 - The Trustee stands on his objections that this request is overbroad, unduly burdensome, irrelevant, and/or disproportionate to the needs of the case. Nonetheless, the Trustee has identified these folders and is in the process of exporting and reviewing them, and, subject to his Responses and Objections to Defendants Requests, will produce responsive documents to the extent they can be located and produced without undue burden.	7/6/22 Letter 10/12/22 Letter	Y/P	Request agreed	To the extent that the Trustee withholds any document in this repository on the basis of any objection or claim of privilege, please identify such withheld document.		Agreed	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed	
15	Unjust Enrichment/Preference Payments Claims	G-Drive	Under the G-Drive HR files, all annual award letters for Jim Dondero, Scott Ellington, and Isaac Leventon (during any period Plaintiff claims is within the statute of limitations)	6/10/22 Letter	7/6/22 - The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time. 10/12/22 - The Trustee is attempting to locate these documents and ascertain their relevance, if any.	7/6/22 Letter 10/12/22 Letter	M	Pursue original request	These files may be found under G-Drive, HR folder, and sorted by the names of each individual defendant. Given that Defendants have provided the approximate drive location for each of these files, please provide an explanation for why it has taken the Trustee over four months to locate and produce these documents.	The Trustee will search for and produce any annual award letters for Jim Dondero, Scott Ellington, and Isaac Leventon located in their HR files on the G-Drive for any period Plaintiff claims is within the statute of limitation.	Agreed	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed	
16	Solvency	G-Drive	Under G-Accounting-Secured, search for a folder for HCMLP (likely called HCMLP, or Highland, or HCM, or Internal). Produce all documents contained therein	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue original request	This was where the permanent and working files of the Corporate Accounting department were kept. This is the best repository of HCMLP financial documents and the primary source for solvency data. To the extent that the Trustee determines that it will not produce all documents in this drive location, it is nevertheless the Trustee's obligation to review the documents in this drive location and produce all relevant documents contained therein.	The Trustee will produce documents from G-Accounting-Secured relevant to a solvency analysis that are reasonable and proportionate to the needs of the case.	Agreed	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed	
17	NPA/HCMA Claims	G-Drive	Legal Invoices Pivot Table: Defendants believe that copies of this table likely exist in the G- Drive (David Klov or Kristin Hendrix will likely know the correct reference). The table may also be found in the Z-Drive (Z-Legal-Invoices) and/or in the U-Drives of Helen Kim or Isaac Leventon.	6/10/22 Letter	7/6/22 - The Litigation Trustee is in the process of evaluating privileges that may apply to the Legal Invoices Pivot Table. If no privileges apply, the Litigation Trustee will produce the Legal Invoices Pivot Table. 7/22/22 - At M&C there was much discussion of the Pivot Table. LT said they would produce only the information that relates to this case, such as expenses related to litigations or transactions set forth in Complaint. Defs objected noting that this is a spreadsheet (i.e. a document) and should be produced since part of it contains potentially relevant information. 10/12/22 - The Trustee will produce the most recent version of the Legal Invoices Pivot Table that could reasonably be located as of the Petition Date. If a more recent version as of the Petition Date is located, the Trustee will produce it.	7/6/22 Letter 7/22/22 M&C 10/12/22 Letter	Y/P	Request agreed	Please provide the timing for the production of the agreed upon documents. Defendants request production of such documents no later than November 21, 2022.		Agreed	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed	
18	NPA/HCMA Claims	G-Drive	Under G-Accounting, all law firm litigation disclosure letters in support of audits	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of G-Accounting for law firm litigation disclosure letters in support of audits and produce nonprivileged documents relevant to claims or defenses in this litigation. 10/12/22 - The Trustee has located a number of such letters, both at this file path and through additional searches, and will produce them.	7/6/22 Letter 10/12/22 Letter	Y	Request agreed	Please provide the timing for the production of the agreed upon documents. Defendants request production of such documents no later than November 21, 2022.		Agreed	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed	
19	CLO Holdco Transaction	G-Drive	Under G-Accounting-Secured-Tax, all documents in any folder with "DAP" or "CLO Holdco" or "Dondero" or "Mark Patrick" in the name	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue modified request	This is the permanent and working files for the Tax team. This is the best repository of documents related to Defendants DAF and CLO Holdco in relation to the CLO Holdco Transaction as referenced in the Amended Complaint at ¶¶ 131 - 136. To the extent that the Trustee determines that it will not produce all documents in this drive location, it is nevertheless the Trustee's obligation to review the documents in this drive location and produce all relevant documents contained therein. Alternatively, if the Trustee will provide a folder tree and list of files from these drive locations, the Defendants may be able to narrow the scope of requested folders.	The Trustee will produce responsive documents relied upon to make CLO Holdco claims.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	Defendants are entitled to production of all documents relevant to the CLO Holdco Transaction, not just those documents that the Litigation Trustee selectively "relied upon" to make its claims. Please confirm the Litigation Trustee will produce all documents that make reference to, or are relevant to, the CLO Holdco Transaction. Additionally, Defendants specifically requested that the Litigation Trustee search the designated G-Drive folders, but received the vague response that "The Trustee expects that these documents will come from the G-Drive." That response neither confirms nor denies that LT will search the designated G-Drive folders. Please clarify by stating "Yes" or "No": does the Litigation Trustee agree to search, under G-Accounting-Secured-Tax, folders with "DAF" or "CLO Holdco" or "Dondero" or "Mark Patrick" in the name?	Further clarification needed on LT production position

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
20	CLO Holdco Transaction	G-Drive	Under G-Accounting, all documents located in folder(s) for DAF or CLO Holdco	6/10/22 Letter	Pursue modified request	7/6/22 Letter	N	Pursue modified request	This is the permanent and working files for the accountants that kept the fund accounting records for Defendants DAF and CLO Holdco. This is the best repository of documents related to the financial condition and transactions of Defendants DAF and CLO Holdco in relation to the CLO Holdco Transaction. To the extent that the Trustee determines that it will not produce all documents in this drive location, it is nevertheless the Trustee's obligation to review the documents in this drive location and produce all relevant documents contained therein. Alternatively, if the Trustee will provide a folder tree and list of	The Trustee will produce responsive documents relied upon to make CLO Holdco claims.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	Defendants are entitled to production of all documents relevant to the CLO Holdco Transaction, not just those that the Litigation Trustee selectively "relied upon" to make its claims. Please confirm the Litigation Trustee will produce all documents that make reference to, or are relevant to, the CLO Holdco Transaction. Additionally, Defendants specifically requested that the Litigation Trustee search the designated G-Drive folders, but received the vague response that "The Trustee expects that these documents will come from the G-Drive." That response neither confirms nor denies that the Litigation Trustee will search the designated G-drive folders. Please clarify by stating "Yes" or "No"; does the Litigation Trustee agree to search, under G-Accounting, folders with "DAF" or "CLO Holdco" in the name?	Further clarification needed on LT production position
21	Solvency; all fraudulent transfer claims	G-Drive	Under G-Accounting-Secured, any Quickbooks files (.qbw) related to Strand, HCMLP, Dugaboy, Dondero, Multi-Strat, NPA, HCMFA, any other Defendant, or any other alleged transferor or transferee of a fraudulent transfer	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue original request	This will be a limited number of files, relatively easy to gather and produce. Punch in the file extension .qbw to Windows Explorer, and it will return all of the files. Again, this is the primary source of accounting for the allegedly fraudulent transactions. To the extent that the Trustee determines that it will not produce all such documents, it is nevertheless the Trustee's obligation to review the documents in this drive location and produce all documents (a) related to any alleged fraudulent transfer; (b) reflecting on the solvency of HCMLP or Strand and (c) containing any transfers between NPA or HCMFA on one hand and HCMLP on the other.	The Trustee will produce responsive documents relied upon to make CLO Holdco claims.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	Defendants are entitled to production of all Quickbooks files relevant to the CLO Holdco Transaction, not just those that the Litigation Trustee selectively "relied upon" to make its claims. Please confirm the Litigation Trustee will produce all Quickbooks files that make reference to, or are relevant to, the CLO Holdco Transaction. In addition, Defendants' request was not limited to the CLO Holdco Transaction, but also covered Quickbooks files (a) related to any alleged fraudulent transfer; (b) reflecting on the solvency of HCMLP or Strand and (c) containing any transfers between NPA or HCMFA on one hand and HCMLP on the other. Additionally, Defendants specifically requested that the Litigation Trustee search the designated G-Drive folders, but received the vague response that "The Trustee expects that these documents will come from the G-Drive." That response neither confirms nor denies that LT will search the designated G-drive folders. Please clarify by stating "Yes" or "No"; does the Litigation Trustee agree to search under G-Accounting-Secured for Quickbooks files related to the topics listed above?	Further clarification needed on LT production position
22	Alter ego claims; fraudulent transfer claims v. Dondero, Okada, and Dugaboy	G-Drive	Under G-Accounting-Executive Accounting, produce all documents found therein	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue modified request	This is the best repository of documents related to the financial condition and transactions of Defendants Dondero, Okada, Dugaboy, Get Good, and the Okada Trustees. To the extent that the Trustee determines that it will not produce all documents in this drive location, it is nevertheless the Trustee's obligation to review the documents in this drive location and produce all relevant documents contained therein. Alternatively, if the Trustee will provide a folder tree and list of	The Litigation Trustee objects to the request for all documents in G-Accounting-Executive Accounting for each entity as overly broad, unduly burdensome, disproportionate to the needs of the case, and seeking documents not relevant to any party's claims or defenses, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	The Litigation Trustee appears to be operating under a misapprehension of what the G-Accounting-Executive Accounting folder will hold. This is the repository for key documents of the Executive Accounting team, which—unlike Corporate Accounting—dealt only with accounting for Defendants Okada and Dondero, as well as their related trusts or entities including Dugaboy, Get Good, and the Okada Trustees. Access to such a folder would have been limited to the Executive Administrative team. The documents housed therein are likely to be highly relevant to claims and defenses in this litigation. For clarity, Defendants request that the Litigation Trustee search this location for documents responsive to the topics listed in Annex B, rows 4, 5, 23, 24, 25, and 26. Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to produce documents in response to this modified request?	Refused
23	HE Capital 232 Claim	G-Drive	Under G-Investments-Teams- Dameris or G-Investments-Teams- Real Estate, all documents in any folder or sub-folder with "HE 232" or "232" or "Asante" in the name, including but not limited to those located under "HE Deals" or "Ellman" folder. Produce all contents located in the folders.	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of G- Investments-Teams-Dameris and G-Investments-Teams-Real Estate for documents in any folder or sub-folder with "HE 232" or "232" or "Asante" in the name and produce nonprivileged documents relevant to claims or defenses in this litigation. 10/12/22 - The Trustee has identified these folders and is in the process of exporting and, subject to his Responses and Objections to Defendants Requests, will produce responsive documents to the extent they can be located and produced without undue burden.	7/6/22 Letter 10/12/22 Letter	Y	Request agreed	To the extent that the Trustee withholds any document in this repository on the basis of any objection or claim of privilege, please identify such withheld document.		Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
24	NPA/HCMFA Claims	G-Drive	Under G-Legal & Compliance, locate any folders for NPA, HCMFA, HFAM, or Pysis; produce all documents contained therein	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue modified request	These are the compliance records for these Defendants, and should have been provided when the companies separated, but were not. Also, these files show the on-going regulatory and compliance reasons for separating NPA/HCMFA from HCMLP. To the extent that the Trustee determines that it will not produce all documents in this drive location, it is nevertheless the Trustee's obligation to review the documents in this drive location and produce all relevant documents contained therein. Alternatively, if the Trustee will provide a folder tree and list of files from these drive locations, the Defendants may be able to narrow the scope of requested folders.	The Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. Subject to these objections, the Trustee has identified potentially relevant Compliance-related subfolders within the G-Legal & Compliance folder, and will further search those for any folders for NPA, HCMFA, HFAM, or Pysis, and will produce compliance records from the time period that NPA, HCMFA, HFAM or Pysis were created that are relevant, reasonable, and proportionate to the claims and defenses at issue.			Please (i) clarify the search methodology used by the Litigation Trustee to identify relevant documents, and (ii) clarify any folders designated in this Request that the Litigation Trustee did not search and any documents withheld on the grounds that they were not "reasonable or proportionate."	Further clarification needed on LT production position

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
NPA/HCMFA 25 Claims		G-Drive	Under G-Accounting-Secured, all documents from any folders for NexPoint or HCMFA	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue modified request	These are the accounting records for these Defendants, and should have been provided when the companies separated, but were not. Also, these files will reflect each of the transactions between such Defendants and HCMLP. To the extent that the Trustee determines that it will not produce all documents in this drive location, it is nevertheless the Trustee's obligation to review the documents in this drive location and produce all relevant documents contained therein. Alternatively, if the Trustee will provide a folder tree and list of files from these drive locations, the Defendants may be able to narrow the scope of requested folders.	The Trustee will produce documents sufficient to show the challenged intercompany transfers with the Lifeboats.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	The Litigation Trustee's agreement to produce "documents sufficient to show the challenged intercompany transfers with the Lifeboats" is insufficient. The Litigation Trustee alleges that every net dollar generated by NexPoint and HCMFA belongs to Highland. Therefore, Defendants are entitled to accounting data relevant to the defense of and calculation of damages for this claim, including the determination of how much revenue went to Highland, and evidence regarding individual revenue sources to show that these revenues were not available to Highland. Specifically, Defendants seek the following types of documents that are likely to be found in the designated folders: (i) consolidated audited and unaudited financials, balance sheets, income statements, cash flow statements, and statements of shareholder or partner equity from 2010 through the present, including all pro formas and drafts of such documents; (ii) documents specific to or reflecting any of the specific transactions identified in the Complaint that allegedly include NPA or HCMFA as transferor or transferee of any consideration; (iii) schedules of transactions and transaction ledgers; and (iv) transactional documents or schedules reflecting any transaction between HCMFA or NPA on one hand and Highland on the other. Additionally, Defendants specifically requested that LT search the designated G-Drive folders, but received the vague response that "The Trustee expects that these documents will come from the G-Drive." That response neither confirms nor denies that LT will search the designated G-drive folders. Please confirm by stating "Yes" or "No": does the Litigation Trustee agree to search, under G-Accounting-Secured, folders for NexPoint or HCMFA?	Further clarification needed on LT production position
Breach of Fiduciary Duty 26 Claims		G-Drive	Under Backoffice - Employee Services, all policy documents posted for employee review	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of Backoffice - Employee Services for policy documents posted for employee review and produce nonprivileged documents relevant to claims or defenses in this litigation. 10/12/22 - The Trustee has identified documents responsive to this request and will produce them.	7/6/22 Letter 10/12/22 Letter	Y	Request agreed	Please provide the timing for the production of the agreed upon documents. Defendants request production of such documents no later than November 21, 2022.		Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
Breach of Fiduciary Duty 27 Claims		G-Drive	Under G-Legal & Compliance, all minutes of the Conflicts Committee	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of Backoffice - Employee Services for minutes of the Conflicts Committee and produce nonprivileged documents relevant to claims or defenses in this litigation. 10/12/22 - The Trustee has identified these folders and is in the process of exporting and reviewing them, and, subject to his Responses and Objections to Defendants Requests, will produce responsive documents to the extent they can be located and produced without undue burden.	7/6/22 Letter 10/12/22 Letter	Y	Request agreed	To the extent that the Trustee withholds any document in this repository on the basis of any objection or claim of privilege, please identify such withheld document.		Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
Breach of Fiduciary Duty 28 Claims		G-Drive	Under G-Legal & Compliance - all employee handbooks, policies, conflicts policies, and trading and allocation policies for all RIAs (HCMLP, HCMFA, NPA)	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of G- Legal & Compliance for employee handbooks, policies, conflicts policies, and trading and allocation policies for all RIAs (HCMLP, HCMFA, NPA) and produce nonprivileged documents relevant to claims or defenses in this litigation. 10/12/22 - The Trustee has identified these folders and is in the process of exporting and reviewing them, and, subject to his Responses and Objections to Defendants Requests, will produce responsive documents to the extent they can be located and produced without undue burden.	7/6/22 Letter 10/12/22 Letter	Y	Request agreed	To the extent that the Trustee withholds any document in this repository on the basis of any objection or claim of privilege, please identify such withheld document.		Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
NPA/HCMFA 29 Claims		G-Drive	Under G-Accounting-Secured, all documents from any folder specific to NexPoint Advisors. [Note that David Klos and Kristin Hendrix should be able to locate the NexPoint audits and audit support documents on the G-Drive.]	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue modified request	These are the accounting records for these Defendants, and should have been provided when the companies separated, but were not. Also, these files will reflect each of the transactions between such Defendants and HCMLP, as well as provided information demonstrating that NPA's finances and operations were independent from those of HCMLP. To the extent that the Trustee determines that it will not produce all documents in this drive location, it is nevertheless the Trustee's obligation to review the documents in this drive location and produce all relevant documents contained therein. In particular, the Trustee should produce all documents reflecting or related to any transfer between HCMLP and NPA and anything demonstrating NPA's operations as independent from those of HCMLP. Alternatively, if the Trustee will provide a folder tree and list of files from these drive locations, the Defendants may be able to narrow the scope of requested folders.	The Trustee will produce documents sufficient to show the challenged intercompany transfers with the Lifeboats.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	The Litigation Trustee's agreement to produce "documents sufficient to show the challenged intercompany transfers with the Lifeboats" is insufficient. The Litigation Trustee alleges that every net dollar generated by NexPoint Advisors belongs to Highland. Therefore, Defendants are entitled to accounting data relevant to the defense of and calculation of damages for this claim, including the determination of how much revenue went to Highland, and evidence regarding individual revenue sources to show that these revenues were not available to Highland. Specifically, Defendants seek the following types of documents that are likely to be found in the designated folders: (i) consolidated audited and unaudited financials, balance sheets, income statements, cash flow statements, and statements of shareholder or partner equity from 2010 through the present, including all pro formas and drafts of such documents; (ii) documents specific to or reflecting any of the specific transactions identified in the Complaint that allegedly include NexPoint Advisors as transferor or transferee of any consideration; (iii) schedules of transactions and transaction ledgers; and (iv) transactional documents or schedules reflecting any transaction between NPA on one hand and Highland on the other. Additionally, Defendants specifically requested that LT search the designated G-Drive folders, but received the vague response that "The Trustee expects that these documents will come from the G-Drive." That response neither confirms nor denies that LT will search the designated G-drive folders. Please confirm by stating "Yes" or "No": does the Litigation Trustee agree to search, under G-Accounting-Secured, folders for NexPoint Advisors?	Further clarification needed on LT production position

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
30	NPA/HCMFA Claims	G-Drive	Under G-Accounting-Secured, all documents from any folders specific to HCMFA, Highland Funds, HFAM or Pyxis. [Note that David Klox and Kristin Hendrix should be able to locate the HCMFA audits and audit support documents on the G-Drive.]	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue modified request	These are the accounting records for these Defendants, and should have been provided when the companies separated, but were not. Also, these files will reflect each of the transactions between such Defendants and HCMPL, as well as provided information demonstrating that NPA's finances and operations were independent from those of HCMPL. To the extent that the Trustee determines that it will not produce all documents in this drive location, it is nevertheless the Trustee's obligation to review the documents in this drive location and produce all relevant documents contained therein. In particular, the Trustee should produce all documents reflecting or related to any transfer between HCMPL and HCMFA and anything demonstrating HCMFA's operations as independent from those of HCMPL. Alternatively, if the Trustee will provide a folder tree and list of files from these drive locations, the Defendants may be able to narrow the scope of requested folders.	The Trustee will produce documents sufficient to show the challenged intercompany transfers with the lifeboats.	Source Clarification Requested	The Litigation Trustee's agreement to produce "documents sufficient to show the challenged intercompany transfers with the Lifeboats" is insufficient. The Litigation Trustee alleges that every net dollar generated by NexPoint Advisors belongs to Highland. Therefore, Defendants are entitled to accounting data relevant to the defense of and calculation of damages for this claim, including the determination of how much revenue went to Highland, and evidence regarding individual revenue sources to show that these revenues were not available to Highland. Specifically, Defendants seek the following types of documents that are likely to be found in the designated folders: (i) consolidated audited and unaudited financials, balance sheets, income statements, cash flow statements, and statements of shareholder or partner equity from 2010 through the present, including all pro formas and drafts of such documents; (ii) documents specific to or reflecting any of the specific transactions identified in the Complaint that allegedly include HCMFA, Highland Funds, HFAM or Pyxis as transferor or transferee of any consideration; (iii) schedules of transactions and transaction ledgers; and (iv) transactional documents or schedules reflecting any transaction between HCMFA, Highland Funds, HFAM or Pyxis on one hand and Highland on the other. Additionally, Defendants specifically requested that LT search the designated G-Drive folders, but received the vague response that "The Trustee expects that these documents will come from the G-Drive." That response neither confirms nor denies that LT will search the designated G-drive folders. Please confirm by stating "Yes" or "No": does the Litigation Trustee agree to search, under G-Accounting-Secured, folders for HCMFA, Highland Funds, HFAM or Pyxis?	Further clarification needed on LT production position	
31	NPA/HCMFA Claims	G-Drive	G-Retail Funds ; produce all documents contained therein	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue modified request	These are the investments and operations records for these Defendants, and should have been provided when the companies separated, but were not. To the extent that the Trustee determines that it will not produce all documents in this drive location, if the Trustee will provide a folder tree and list of files from these drive locations, the Defendants may be able to narrow the scope of requested folders.	The Trustee stands on his objections to this request and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	The Litigation Trustee's refusal to search this source or provide a folder tree that would allow for a narrower search is noted and Defendants reserve all rights, but will hold this request in abeyance pending review of the Litigation Trustee's forthcoming productions from other sources.	Refused
32	Fraudulent transfer claims	G-Drive	Under G-Legal & Compliance, a folder called "Trading" or "Trades" and then a folder called "Cross Trades." Look for any documents, including a "Cross Trade Packet" or "Cross Trade Approval" related to any of the Acis Transactions, Crusader interest assignment to HCMPL (or an affiliate), and the Sentinel Transfer	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These are essential documents to demonstrate that the allegedly fraudulent trades were conducted in accordance with HCMPL's compliance department rules.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, disproportionate to the needs of the case, and seeking documents not relevant to any party's claims or defenses, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	As noted in Defendants' November 9 response, these documents are highly relevant to Defendants' defenses as they are essential to demonstrate that the allegedly fraudulent trades related to the Acis Transactions, Crusader interest assignment to HCMPL (or an affiliate), and the Sentinel Transfer were conducted in accordance with HCMPL's compliance department rules. Moreover, Defendants expect the search in the designated folders to yield a very reasonable amount of documents, so there is no undue burden or overbreadth. Please confirm by stating "Yes" or "No": does the Litigation Trustee refuse to search for responsive documents in a sub-sub folder called "Cross Trades" under a sub-folder called "Trading," which is under the G-Legal & Compliance folder?	Refused
33	Breach of Fiduciary Duty re Acis/Terry	G-Drive	Under G-Accounting, a folder either called "Secured" or "Corporate". Look within this folder tree for the Acis Note, a payment ledger on the Acis Note, and any other documents related to the Acis note.	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	This is essential to determine the payment history of the allegedly fraudulently transferred note and what net damages Debtor incurred as a result of said transfer.	The Trustee will search for and produce documents sufficient to show the existence of the Acis Note and any payments made thereon.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	In addition to the documents the Litigation Trustee identified and agreed to in its December 12 response, please confirm the Litigation Trustee will produce transactional documents related to the creation of the Note, any subsequent transfer of the Note, and the current ownership and value of the Note (or the extinguishment or payoff of the Note if it no longer exists). Additionally, Defendants specifically requested that the Litigation Trustee search the designated G-Drive folders, but received the vague response that "The Trustee expects that these documents will come from the G-Drive." That response neither confirms nor denies that LT will search the designated G-drive folders. Please clarify "Yes" or "No": does the Litigation Trustee agree to search, under G-Accounting, a folder either called "Secured" or "Corporate" for these documents?	Further clarification needed on LT production position
34	Breach of Fiduciary Duty re Crusader	G-Drive	Search for term "Eames" under the entire G-Drive (start with folders Accounting, Legal & Compliance, and Operations)	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Eames was related to the Barclays transaction which allegedly led to a portion of the Debtor's liability to the Crusader Redeemer Committee. Eames was set up for the sole purpose of holding the transferred Barclays' interest in Crusader, everything related to Eames would be relevant.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and seeking documents not relevant to any party's claims or defenses, and will not produce it at this time.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	As noted in Defendants' November 9 response, documents related to Eames, and in particular documents related to the transaction whereby Eames (a Special Purpose Vehicle set up for this purpose) received Barclays' interest in Crusader, are necessarily relevant to the claims and defenses regarding the Crusader allegations in the Amended Complaint. Nevertheless, as Defendants understand from the last meet and confer that the Litigation Trustee faces technical difficulties in running search terms across the entire G-drive, rather than sub folders, Defendants will limit their request to a search for the term "Eames" under the following G-drive folders: Accounting, Legal & Compliance, Operations, and Investment. Please confirm by stating "Yes" or "No": does the Litigation Trustee refuse to search for and produce documents in response to this modified request?	Refused
35	Breach of Fiduciary Duty re HarbourVest	G-Drive	G-Accounting-Funds, a folder for Highland CLO Funding, Ltd. (may be called "HCLOF" or "Highland CLO Funding" or "ALP"). Within that folder, all NAV statements and packages, balance sheets, investor statements, audited or unaudited financial statements, capital rolls, for 2020, 2021, and 2022.	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	As HCMPL purchased HarbourVest's interest in HCLOF as part of the settlement agreement with HarbourVest, Defendants are entitled to (1) the value of such interest at any relevant time and (2) any documents reflecting any cash payment to HCMPL on account of such interest.	The Trustee will search for and produce documents sufficient to show the value of HCLOF from 2020-2022.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	In addition to the documents the Litigation Trustee identified and agreed to in its December 12 response, please confirm the Litigation Trustee will produce the underlying transactional documents related to the transfer of the HCLOF shares. Defendants will interpret the Litigation Trustee's clarification that it "expects that these documents will come from the G-Drive" as the Litigation Trustee's agreement to search Trading and Operations folders in the G-Drive for the requested documents. If this is not correct, please clarify what the Litigation Trustee means by its response.	Further clarification needed on LT production position
36	Breach of Fiduciary Duty re HarbourVest	G-Drive	Trade documents relating to Highland's purchase of HarbourVest's interests in HCLOF (search folders for Trading or Operations)	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	As HCMPL purchased HarbourVest's interest in HCLOF as part of the settlement agreement with HarbourVest, Defendants are entitled to (1) the value of such interest at any relevant time and (2) any documents reflecting any cash payment to HCMPL on account of such interest.	The Trustee will search for and produce documents sufficient to show payments made to HCMPL on account of the HCLOF shares from 2020-2022.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	In addition to the documents the Litigation Trustee identified and agreed to in its December 12 response, please confirm the Litigation Trustee will produce any models or calculations showing the value of HarbourVest's interest in HCLOF from 2020 to present.	Further clarification needed on LT production position
37	Breach of Fiduciary Duty re HarbourVest	G-Drive	Any models or calculations showing the value HarbourVest's interests in HCLOF at any time in 2020 through today	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	As HCMPL purchased this interest as part of the settlement agreement with HarbourVest, Defendants are entitled to (1) the value of such interest at any relevant time and (2) any documents reflecting any cash payment to HCMPL on account of such interest.	The Trustee will search for and produce documents sufficient to show the value of HCLOF from 2020-2022.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	In addition to the documents the Litigation Trustee identified and agreed to in its December 12 response, please confirm the Litigation Trustee's agreement to search the G-Drive for the requested documents. If this is not correct, please clarify what the Litigation Trustee means by its response.	Further clarification needed on LT production position

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
38	Solvency	G-Drive	G-Accounting-Secured, should be a folder for HCMLP (likely called HCMLP, or Highland, or HCM, or Internal). Within this folder, locate and produce all of "HCMLP's consolidated and consolidating audited and unaudited financials, balance sheets, income statements, cash flow statements, and statements of shareholder or partner equity from 2010 through the present, including all pro formas and drafts of such documents."	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants need HCMLP's financial statements and the related documentation for the purposes of establishing solvency.	The Trustee will provide HCMLP's financial statements.	Source Clarification Requested	The Trustee expects that these documents will come from the G-Drive.	In its December 12 response, the Litigation Trustee agreed to produce "HCMLP's financial statements." Please confirm (1) the date range the Litigation Trustee agrees to produce and (2) that "financial statements" include "consolidated and consolidating audited and unaudited financials, balance sheets, income statements, cash flow statements, and statements of shareholder or partner equity from 2010 through the present, including all pro formas and drafts of such documents." Additionally, Defendants specifically requested that the Litigation Trustee search the designated G-Drive folders, but received the vague response that "The Trustee expects that these documents will come from the G-Drive." That response neither confirms nor denies that the Litigation Trustee will search the designated G-drive folders. Please confirm by stating "Yes" or "No": does the Litigation Trustee agree to search, under G-Accounting-Secured, a folder for HCMLP (likely called HCMLP, or Highland, or HCM, or Internal)?	Further clarification needed on LT production position
39	CLO Holdco Transaction	G-Drive	G-Accounting-Secured; the Dugaboy Note referenced in Complaint Para. 126; any amendments thereto; and any other transactional documents related to the CLO Holdco Transaction referenced in Complaint Paras. 125 - 130	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious transaction referenced in the Amended Complaint.	The Trustee will produce transaction documents related to the Dugaboy Note and related to the CLO Holdco transaction as referenced in paragraphs 130-136 of the Amended Complaint.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
40	CLO Holdco Transaction	G-Drive	G-Accounting; any documents showing payments on account of the Crusader Participation interests referenced in Complaint Para. 127	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious transaction referenced in the Amended Complaint.	The Trustee will produce transaction documents showing any payments on account of the Crusader interests referenced in paragraph 133 of the Amended Complaint.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
41	CLO Holdco Transaction	G-Drive	Capital Loan Fund, L.P., capital rolls, NAV packages, or financial statements showing (a) any payment from Highland Capital Loan Fund to any party on account of the Series A interests referenced in Complaint Para. 127 and (b) the current holder and NAV balance of the Series A interests referenced in Complaint Para. 127	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious transaction referenced in the Amended Complaint.	The Trustee will produce transaction documents showing payments from HCLF to any party relating to the Series A interests, and documents sufficient to show the current holder and NAV balance of the Series A interests referenced in paragraph 133 of the Amended Complaint.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
42	CLO Holdco Transaction	G-Drive	G-Accounting; G-Valuation; documents sufficient to show the value and disposition of the American Airlines call options referenced in Complaint Para. 127.	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious transaction referenced in the Amended Complaint.	The Trustee will produce documents sufficient to show the value and disposition of the AA call options referenced in paragraph 133 of the Amended Complaint.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
43	Massand Claims	G-Drive	Any document with "Massand" in the title	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious Massand payments referenced in the Amended Complaint.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, disproportionate to the needs of the case, and seeking documents not relevant to any party's claims or defenses. Subject to these objections, the Trustee will locate and produce documents found in folders with "Massand" in the title that are relevant to the claims.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
44	Massand Claims	G-Drive	G-Accounting; search for any folder with "Massand" in the title - produce all folder contents	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious Massand payments referenced in the Amended Complaint.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, disproportionate to the needs of the case, and seeking documents not relevant to any party's claims or defenses. Subject to these objections, the Trustee will locate and produce documents found in folders with "Massand" in the title that are relevant to the claims.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
45	HE Capital 232 Claim	G-Drive	All transactional documents related to HE Capital 232 (if not located in G-Investments-Teams, may need to look in G-Accounting-Secured).	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to the allegedly tortious HE Capital 232 transaction referenced in the Amended Complaint.	The Litigation Trustee will locate and produce transactional documents related to HE Capital 232.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
46	HE Capital 232 Claim	G-Drive	G-Accounting; any Quickbooks files (.qbw) related to "He Capital 232"	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to the allegedly tortious HE Capital 232 transaction referenced in the Amended Complaint.	The Litigation Trustee has searched for and located folders relating to HE Capital 232 and will produce documents that are relevant to the HE 232 transaction referenced in the Amended Complaint.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
47	Hunter Mountain	G-Drive	G-Accounting-Secured; locate any excel documents tracking payments to or from Hunter Mountain	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious transaction referenced in the Amended Complaint.	The Trustee will produce transaction documents sufficient to show payments to or from Hunter Mountain.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
48	Breach of Fiduciary Duty re UBS/Sentinel	G-Drive	Search for term "Sentinel" under the entire G-Drive (start with folders Accounting, Legal & Compliance, and Operations)	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious Sentinel transaction referenced in the Amended Complaint.	The Trustee will produce non-privileged documents relevant to the claims regarding Sentinel asserted in the Amended Complaint.	Source Clarification Requested Privilege Clarification Requested	The Trustee intends to comply with the Limited Waiver that the Parties have agreed to, i.e., a waiver of privilege over pre-petition documents. However, to the extent there are any post-petition privileged documents found in this source, the Trustee maintains its privilege objections as to those documents. Further, the Trustee cannot perform a keyword search for "Sentinel" within the entire G Drive; instead, as with other requests, the Trustee will search for folders containing that word that are located within the G Drive.	The Litigation Trustee's agreement to produce documents "relevant to the claims regarding Sentinel that are asserted in the Amended Complaint" is insufficient; Defendants are also entitled to documents relevant to their defenses and, given the broad allegations concerning Sentinel in the Amended Complaint, this encompasses documents related to Sentinel or the allegedly tortious Sentinel transactions referenced in the Amended Complaint. Nevertheless, as Defendants understand from the last meet and confer that the Litigation Trustee faces technical difficulties in running search terms across the entire G-drive, rather than sub folders. However, a search for "Sentinel" in the name of a sub-folder is insufficient as this does not reflect how documents were organized in the ordinary course of business. Defendants will limit their request to a search for the term "Sentinel" in file names under the following G-drive folders: Accounting, Legal & Compliance, Operations, and Settlement. Please confirm by stating "Yes" or "No": does the Litigation Trustee agree to search for and produce documents in response to this modified request?	Further clarification needed on LT production position

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
49	NPA/HCMA Claims	HOME	All legal invoices from Ropes & Gray, Simpson Thatcher, K+L Gates, Paul Hastings, Stradley Roman, Akin Gump, Blank Rome, WilmerHale, & Drinker Biddle paid for in part or in whole by NesPoint, HCMA, or any fund managed by either of them (this can be determined by filtering by payor on the Legal Invoice Pivot Table). All invoices are saved in HOME under Backoffice-Legal & Compliance-Invoices and Backoffice-Legal & Compliance-Projects	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These law firms provided legal advice regarding the necessity to establish and maintain separate Retail Advisors (NPA and HCMA) from the Institutional Advisor (HCMLP). These invoices therefore are essential to the Defendants' position that NPA and HCMA were established as separate advisors based on advice of counsel, and not as alleged "lifeboats." In particular, the time narratives will indicate what advice was given, by whom, and what written work product memorializing such advice, was drafted by counsel.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, disproportionate to the needs of the case, and seeking documents not relevant to any party's claims or defenses, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	For clarity, as the request itself indicates, this is a request for a specific and limited set of documents from HOME, not from the G-drive (as initially indicated in Column C). Please confirm by stating "Yes" or "No"; the Litigation Trustee refuses to search HOME for and produce the requested documents, standing instead on its objections that the request is "overly broad, unduly burdensome, disproportionate to the needs of the case, and seeking documents not relevant to any party's claims or defenses."	Refused
50	NPA/HCMA Claims	G-Drive	questionnaires) from 2012 - 2019. Not sure where they are stored. Will need to search under Legal & Compliance, Marketing, and Retail. Additional: Go to G:\LEGAL-COMPLIANCE\HCFD\HCFDD\DDQ; G:\Investor Relations\RFPs and DDQs; G:\Investor Relations\RFPs and DDQs\DDQs - Retail; G:\Investor Relations\RFPs and DDQs\NATIONAL ACCOUNTS; G:\Investor Relations\Retail Prospect Requests; M:\Client Service\Prospect Requests, DDQs, RFPs; M:\Client Service\Client Correspondence; M:\Client Service\Useful General Materials; M:\Client Service\Capabilities Decks; M:\Client	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	All due diligence questionnaires, pitchbooks, or other marketing materials that address the on-going litigation or litigation risk of HCMLP, NPA, or HCMA. As discussed with Plaintiff on August 26, the Defendants agreed to withdraw email search term 53 for DDQs, reserving all rights pending the results of Plaintiff's production of such documents from the G and/or M drives.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, seeking documents not relevant to any party's claims or defenses, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	As Defendants previously have explained, the DDQs will tend to prove or disprove the allegation that third parties were willing to engage in the same transactions with HCMLP as with NPA and HCMA, and that HCMLP therefore would have earned the same net revenue. The designated folders are the best source for locating such documents. Indeed, in the Parties' August 26, 2022 meet and confer, the Litigation Trustee represented that, in lieu of searching prepetition emails for the DDQs, it would agree to search for and produce DDQs from the G- and/or M-drives. In reliance on that representation, Defendants agreed to withdraw prepetition email search term 53 for DDQs, reserving all rights pending the results of the Litigation Trustee's production of such documents from the G- and/or M-drives. This is reflected in column O of the prepetition search term spreadsheet emailed by the Litigation Trustee's counsel on October 12, 2022. Please confirm the Litigation Trustee's change in position by stating "Yes" or "No"; the Litigation Trustee refuses to search the G-drive and M-drive for and will not produce DDQs in response to this request.	Refused
51	N/A	G-Drive	G-Drive backup from the most recent date prior to 10/16/2019.	5/3/22 Letter	Objected to request for production without search terms of "entirety of HCMLP's four main servers as they existed prior to the Petition Date" "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain non-duplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case."	5/24/22 M&C 6/14/22 Letter	N	Request withdrawn	N/A				N/A (withdrawn)	
52	Fraudulent transfer claims	Geneva	All ledger entries, wire reports, financials, or other data showing any transfer to any Defendant or to any entity that Plaintiff alleges directly or indirectly received a fraudulent transfer or for whose benefit a fraudulent transfer was made.	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of Geneva for ledger entries, wire reports, financials, or other data showing fraudulent transfers alleged in the Litigation Trustee's Amended Complaint and produce documents relevant to claims or defenses in this litigation. 10/12/22 - Based on discussions with the Reorganized Debtor, the Trustee understands that the Debtor's contract with Geneva was terminated, and that Geneva was not used to make or support any allegations in the Complaint. Accordingly, the Trustee will not produce items from Geneva.	7/6/22 Letter 10/12/22 Letter	N	Pursue modified request	It is not sufficient that Geneva data was not used to make or support the allegations in the Complaint. Rather, the standard is whether or not Geneva has (or had) any data relevant to any of the claims or defenses in this proceeding. Please provide a written certification signed under oath that Geneva did not contain any data relevant to any of the claims or defenses in this proceeding. Additionally, please provide information about when the Geneva contract was terminated, and what, if any, actions were taken by the Debtor to extract and store Geneva data prior to such termination.	The Trustee will produce documents sufficient to show the basis for the fraudulent transfer claims alleged in the Amended Complaint	Source Clarification Requested	These documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive.	Geneva was the primary accounting software and therefore best and most reliable repository of transactional data for certain Defendants and entities. Therefore Defendants are entitled to, at a minimum, production of all Geneva data related to alleged fraudulent transfers, as the Litigation Trustee recognized in its initial response to this request in July 2022. Please confirm by stating "Yes" or "No"; Does the Litigation Trustee refuse to search Geneva for responsive documents? If the answer is "Yes," please also confirm whether the Litigation Trustee has preserved Geneva system data, as requested more than 4 months ago on November 9, 2022.	Further clarification needed on LT production position
53	Breach of Fiduciary Duty re UBS/Sentinel	Geneva	All ledger entries, wire reports, financials, or other data showing any transfer to Sentinel or any of its affiliates	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious Sentinel transaction referenced in the Amended Complaint.	The Trustee will produce documents sufficient to show the basis for the claims concerning the challenged transfers to Sentinel or any of its affiliates.	Source Clarification Requested	These documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive.	The Litigation Trustee's agreement to produce "documents sufficient to show the basis for the claims concerning the challenged transfers to Sentinel or any of its affiliates" is insufficient and vague. Defendants are entitled to all transactional documents related to each allegedly tortious Sentinel transaction referenced in the Amended Complaint, not a selection handpicked by the Litigation Trustee. Please confirm by stating "Yes" or "No"; in addition to the documents referenced in its December 12 response, the Litigation Trustee will produce "all ledger entries, wire reports, financials, or other data showing any transfer to Sentinel or any of its affiliates." Additionally, Defendants specifically requested that the Litigation Trustee search Geneva, because this is the accounting system that would have been used to record the transactions and trades, is by far the most reliable and complete source for the transactional data sought, and is easy to search. By contrast, Defendants understand that the G-drive would have less complete records on this topic that might be housed in a number of locations. As the sources are clearly not duplicative, the Litigation Trustee's vague response that the documents "may not come from the specifically listed source" is unacceptable. Moreover, the response is vague as it neither confirms nor denies that the Litigation Trustee will search Geneva. Please confirm by stating "Yes" or "No"; does the Litigation Trustee agree to search Geneva for the requested documents? Please also confirm whether the Litigation Trustee has preserved Geneva system data.	Further clarification needed on LT production position

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
54	Unjust Enrichment/Preference Payments Claims	HOME	Under Backoffice - Wire Transfers, filter for all wires to (1) any Defendant, (2) Tall Pine, (3) Prive, (4) FHCT, (5) Sunshine Coast, (6) Clairmont Holdings, (7) Dilip Massand, (8) Grey Royale, (9) SS Holdings, (10) Sentinel, or (11) any other entity that Plaintiff alleges directly or indirectly received a fraudulent transfer or for whose benefit a fraudulent transfer was made, unjust enrichment, or other payment subject to clawback, payment, or repayment to Plaintiff under any theory of liability. Produce the wire transfer data and all supporting documents attached to the wire entries.	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of HOME for wire transfer data and supporting documents attached to the wire entries showing fraudulent transfers alleged in the Litigation Trustee's Amended Complaint and produce documents relevant to claims or defenses in this litigation. 10/12/22 - Based on discussions with the Reorganized Debtor, the Trustee understands that HOME -- BackOffice does not contain this type of information. This system contains only transfers to or from HCMLP and a Managed Fund. Transfers to Managing Funds or other funds not officially managed by HCMLP are not logged in this system.	7/6/22 Letter 10/12/22 Letter	N	Pursue modified request	To the extent the payment information is not in HOME, then it may be in Concur. In Concur, go to Invoices and search for any payments to any of the listed entities. Also, to pull the invoice, you may use Invoice Processor < Process invoices < Search by selected criteria and select the individual invoice < select invoice and download or print. Alternatively, the invoices may be saved in the G-Drive: H:\Accounting\Private\Accounts Payable\Vendor Invoices H:\Accounting\Secured\Accounts Payable\Vendor Invoices There may be some combination of "Private" or "Secured" in the file path.	The Trustee will produce documents sufficient to show payments challenged as fraudulent transfers.	Source Clarification Requested	These documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive. Defendants also specified on November 9 alternative locations to search to the extent a transfer is not located in HOME. The Litigation Trustee's vague response that "documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive" is insufficient and neither confirms nor denies that it will search any of the designated sources. Please confirm that the Litigation Trustee has searched HOME as well as the alternate sources for anything that it has confirmed is not in HOME. Defendants requested both challenged and unchallenged transfers. This information is relevant to Defendants' defenses as it will allow Defendants to compare allegedly tortious and non-tortious transfers. Please confirm by stating "Yes" or "No"; Does the Litigation Trustee refuse to produce documents reflecting wires to the designated entities other than the challenged transfers?	Further clarification needed on LT production position	
55	Breach of Fiduciary Duty re HarbourVest	HOME	All data in HOME reflecting the trade order in the OMS for Highland's purchase of HarbourVest's interests in HCLOF	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to information related to the allegedly fraudulent investment by HarbourVest into HCLOF	The Trustee has agreed to provide documents sufficient to show Highland's purchase of HarbourVest's interests in HCLOF.	Source Clarification Requested	These documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive.	The Litigation Trustee's December 12 response that it will produce "documents sufficient to show Highland's purchase of HarbourVest's interests in HCLOF" is vague and insufficient. Defendants are entitled to all data related to the allegedly fraudulent investment by HarbourVest into HCLOF, not a selection hand-picked by the Litigation Trustee. In addition, the Litigation Trustee's clarification of January 18 that the "documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive" is insufficient and neither confirms nor denies that it will search HOME, which is the repository where the requested information is located. Please confirm by stating "Yes" or "No"; does the Litigation Trustee agree to search HOME for the Order Management System ("OMS") data related to Highland's purchase of HCLOF from HarbourVest?	Further clarification needed on LT production position
56	NPA/HCMFA Claims	HOME	Any legal invoices for any firm that advised on the creation of HCMFA or NPA (start with Ropes & Gray). Will be under Backoffice-Legal & Compliance-Invoices and Backoffice-Legal & Compliance-Projects	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These law firms provided legal advice regarding the necessity to establish and maintain separate Retail Advisors (NPA and HCMFA) from the Institutional Advisor (HCMLP). These invoices therefore are essential to the Defendants' position that NPA and HCMFA were established as separate advisors based on advice of counsel, and not as alleged "lifeboats." These invoices therefore are essential to the Defendants' position that NPA and HCMFA were established as separate advisors based on advice of counsel, and not as alleged "lifeboats." In particular, the time narratives will indicate what advice was given, by whom, and what written work product memorializing such advice, was drafted by counsel.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	Defendants clarify that this request may be limited to the time period 2008 - 2012 and the following law firms: Ropes & Gray, Simpson Thacher & Bartlett, Paul Hastings, and Akin Gump. The HOME system will allow a simple search for these entities, which will then display all invoice entries with the attached invoices and messages. Defendants further clarify that this request seeks production only of those invoices related to advice on the creation or maintenance of HCMFA or NPA as entities separate from Highland. Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to search HOME for and produce documents in response to this modified request?	Refused
57	HE Capital 232 Claim	HOME	In top search box, search for "HE 232", "232", or "HE Capital 232." Click on each result showing where securities (debt or equity) issued by HE Capital 232, also click on results for each "Instrument", identify where the Instrument was held (which funds) and all "Trades" or "Transactions" related to each instrument (when you click on the instrument name, it will take you to a page for the instrument with a blue button; click that button, it gives a drop down menu for among other things, Trades and Transactions. Export all results to Excel (blue download button on right side of the screen). Do the same for all other entities in HE Capital 232 structure.	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious HE Capital 232 transaction referenced in the Amended Complaint.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	Defendants note that this request is for the transactional documents related to each allegedly tortious HE Capital 232 transaction referenced in the Amended Complaint, and specifically identifies how to retrieve the relevant data in a few clicks from the HOME system which is the repository for such data. Defendants further note that the request is not burdensome as Defendants understand that the HE Capital 232 structure only involved a few entities, which should be readily ascertainable to the Litigation Trustee on the Legal SharePoint site by searching for "HE 232" and then filtering by document type for an organizational chart. Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to search HOME for and produce the requested documents?	Refused
58	NPA/HCMFA Claims	G-Drive	HR file for every employee hired by an affiliate other than HCMLP (including HCMFA, NPA, Highland Capital Fund Distributors, NXRT, NexAmity Management, and NexPoint Securities); G:\Human Resources\HRPrivate July 2007\Personnel Folders\Employee name). May be another folder level after "Personnel Folders" with the name of the employing affiliate (for example, G:\Human Resources\HRPrivate July 2007\Personnel Folders\HCMLP\Employee name).	Specific Follow Up Request	To be determined	N/A	TBD	Pursue modified request	From the HR files, produce documents sufficient to show each employee hired, which entity employed such employee, and the role of such employee. These documents are relevant to establish that such entities were not mere pass-throughs or shell entities of HCMLP. This should include all employees of HCMFA, NPA, Highland Capital Fund Distributors, NXRT, Vinebrook, NHT Operating Partnership, Eagle Equity, NREF, Inc., NexPoint Storage Partners, Highland Capital NY, and NexPoint Securities.	The Trustee will produce documents sufficient to show the employees hired by Nexpoint and HCMFA.		For clarity, as the request itself indicates, this is a request for a specific and limited set of documents from the G-Drive and not HOME (as initially indicated in Column C). The Litigation Trustee's response agreeing to produce documents sufficient to show the employees hired by Nexpoint and HCMFA is insufficient. Defendants seek documents sufficient to show the employees hired, along with their hiring dates and roles, for HCMFA, NPA, Highland Capital Fund Distributors, NXRT, Vinebrook, NHT Operating Partnership, Eagle Equity, NREF, Inc., NexPoint Storage Partners, Highland Capital NY, and NexPoint Securities. These documents are relevant to establish that numerous affiliates of NexPoint and HCMFA operated with their own employees, and that these defendants were not mere pass-throughs or shell entities of HCMLP. Please confirm by stating "Yes" or "No"; will the Litigation Trustee agree to produce these documents in addition to those agreed in its December 12 response?	Further clarification needed on LT production position	
59	N/A	HOME	Data as of 10/15/2019	5/3/22 Letter	Generally objected to all 5/3 requests as overbroad.	5/24/22 M&C 6/14/22 Letter	N	Request withdrawn	N/A				N/A (withdrawn)	

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
60	NPA/HCMA Claims	HOME	Under Backoffice - Wire Transfers, filter for all wires from HCMA or NPA to HCMLP. Produce the wire data and all supporting documents attached to the wire entries.	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of SharePoint for wire data and supporting documents attached to the wire entries relating to wires from HCMA or NPA to HCMLP and produce documents relevant to claims or defenses in this litigation. 10/12/22 - Based on discussions with the Reorganized Debtor, the Trustee understands that SharePoint does not contain this type of information. Only managed fund transfers are recorded here, not managing funds.	7/6/22 Letter 10/12/22 Letter	N	Pursue modified request	This should be a reference to the HOME system. Based on that modification, filter for and produce all wires to or from HCMLP and any Defendant.	The Trustee will produce documents sufficient to show payments challenged as fraudulent transfers.	Source Clarification Requested	These documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive.	Defendants will limit this request to a narrow set of documents: wire data and attached supporting documents for wires between HCMA or NPA and HCMLP. Defendants understand that HOME is linked to the wire system and should include all wires sent to or from HCMLP. The Litigation Trustee's vague response that "documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive" is insufficient and neither confirms nor denies that it will search the designated location within HOME. Additionally, the Litigation Trustee's December 12 agreement to "produce documents sufficient to show payments challenged as fraudulent transfers" is vague and insufficient. Defendants requested both challenged and unchallenged transfers. This information is relevant to Defendants' defenses as it will allow Defendants to compare allegedly tortious and non-tortious transfers. Please confirm by stating "Yes" or "No": Does the Litigation Trustee refuse to search HOME for and produce the requested wire data for NPA and HCMA?	Further clarification needed on LT production position
61	NPA/HCMA Claims	M-Drive	M-Drive backup from the most recent date prior to 10/16/2019.	5/3/22 Letter	Objected to request for production without search terms of "entirety of HCMLP's four main servers as they existed prior to the Petition Date" "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain non-duplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case."	5/24/22 M&C 6/14/22 Letter	N	Pursue modified request	All M-Drive due diligence questionnaires, pitchbooks, or other marketing materials that address the on-going litigation or litigation risk of HCMLP, NPA, or HCMA. As discussed with Plaintiff on August 26, the Defendants agreed to withdraw email search term 53 for DDOs, reserving all rights pending the results of Plaintiff's production of such documents from the G and/or M drives.	The Trustee objects to this request as overly broad, unduly burdensome, disproportionate to the needs of the case, and irrelevant. Subject to these objections, the Trustee is investigating the feasibility and burdens associated with identifying, searching and reviewing these documents.	RUI	The Litigation Trustee has identified folders on the M Drive likely to contain DDOs and pitchbooks, and will produce responsive materials to the extent it is not unduly burdensome.	Please identify any portion of the clarified request that the Litigation Trustee does not perform because it is "unduly burdensome."	Agreed, subject to clarification
62	Fraudulent transfer claims	Oracle	All ledger entries, wire reports, financials, or other data showing any transfer to any Defendant or to any entity that Plaintiff alleges received a direct or indirect fraudulent transfer or for whose benefit a fraudulent transfer was made, and all payment or transfers from such entities to HCMLP or to any account or entity in which HCMLP owns an interest	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of Oracle for ledger entries, wire reports, financials, or other data showing fraudulent transfers alleged in the Litigation Trustee's Amended Complaint and produce documents relevant to claims or defenses in this litigation. 10/12/22 - Based on discussions with the Reorganized Debtor, the Trustee understands that Oracle contains only ledger entries. The Trustee will search for and produce ledger entries in Oracle that are relevant to any claim or defense in this case.	7/6/22 Letter 10/12/22 Letter	Y/P	Request agreed	Please provide the timing for the production of the agreed upon documents. Defendants request production of such documents no later than November 21, 2022.		Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
63	Fraudulent transfer claims	Oracle	Account data for company codes 0010 (HCMLP), 1300 (CDO Opportunities Fund), 1500 (Select Equity), 1600 (Equity Focus), and 1900 (Credit Opportunities Fund) for all transactions from 1/1/2009 through 10/15/2019.	5/3/22 Letter	Objected to the production without search terms of "the complete records of HCMLP's accounting, payroll, tax, and investment tracking systems"; "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain non-duplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case."	5/24/22 M&C 6/14/22 Letter	N	Pursue modified request	All payments to or from any Defendant to any of these account codes for all transactions from 1/1/2009 through 10/15/2019.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, disproportionate to the needs of the case, duplicative of other requests, including Request 62, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	To further clarify this request, Defendants seek the transactional data available in Oracle for all payments between any Defendant and HCMLP from 1/1/2009 through 10/15/2019 for the following account codes: 0010 (HCMLP), 1300 (CDO Opportunities Fund), 1500 (Select Equity), 1600 (Equity Focus), and 1900 (Credit Opportunities Fund). This request is not duplicative of any other request, including request 62, which seeks ledger entries, not transactional data for specific payments. Please confirm by stating "Yes" or "No": does the Litigation Trustee refuse to search Oracle for and produce the requested information? If the answer is "Yes," please further confirm whether and the extent to which the Litigation Trustee has preserved Oracle data.	Refused
64	Solvency; all fraudulent transfer claims	Oracle	HCMLP's general ledger (in Excel, as previously provided to the UCC)	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	This files from 2014 - 2019 is located in the Z-drive and was produced to the UCC.	The Litigation Trustee will produce HCMLP's general ledger.			Please confirm that the Litigation Trustee will produce the general ledger in Excel format, as previously provided to the UCC.	Agreed, subject to clarification
65	Dugaboy Note Claim	Oracle	Any payments to HCMLP on account of the Dugaboy Note referenced Complaint Para. 126	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious transaction referenced in the Amended Complaint.	The Trustee will produce documents sufficient to show payments to HCMLP on account of the Dugaboy Note.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
66	CLO Holdco Transaction	Oracle	Any ledgers, financial documents, reports or other data for accounts held by DAF or CLO Holdco or any of their subsidiaries	Specific Follow Up Request	To be determined	N/A	TBD	Pursue modified request	All ledgers, financial documents, reports, or other data related to the CLO Holdco Transaction referenced in the Amended Complaint. To the extent that the Trustee alleges that Oracle only has ledgers, provide such ledgers.	The Trustee will produce ledgers or ledger entries related to the CLO Holdco Transaction.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
67	Massand Claims	Oracle	All accounting entries reflecting any payment to any Dilip Massand or Massand Capital	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious Massand payments referenced in the Amended Complaint.	The Trustee will produce ledgers or ledger entries related to the Massand Payments.	Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
68	Breach of Fiduciary Duty re UBS/Sentinel	Oracle	All ledger entries, wire reports, financials, or other data showing any transfer of assets to or from CDO Opportunities Fund (Master or either feeder fund)	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious Sentinel transaction referenced in the Amended Complaint. To the extent that Plaintiff alleges that Oracle only has ledgers, provide such ledgers.	The Trustee will produce ledgers or ledger entries related to the Sentinel Transaction.			In addition to ledger entries, please confirm what other types of documents are available in Oracle. To the extent available, please produce all wire reports, financials, and other data showing transfer of assets from CDO Opportunities fund to Sentinel or any of its related entities. Please confirm by stating "Yes" or "No": will the Litigation Trustee produce these documents in addition to the documents promised in its December 12 response?	Further clarification needed on LT production position
69	All claims	Other	All documents reviewed by Plaintiff in making its allegations	6/10/22 Letter	In due course, and as part of normal productions, the Litigation Trustee will produce documents relied upon in making its allegations.	7/6/22 Letter	Y	Request agreed	Please provide the timing for the production of the agreed upon documents. Defendants request production of such documents no later than November 21, 2022.		Agreed		Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)
70	Breach of Fiduciary Duty re HarbourVest	Outlook	Calendar entries of Scott Ellington, Isaac Leventon, Hamer Covitz, Mark Okada, JP Sevilla, or Trey Parker with any invitee from @harbourvest.com between 1/1/2017 - 1/31/2019	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Defendants are entitled to the transactional documents related to each allegedly tortious HarbourVest investment referenced in the Amended Complaint. The Amended Complaint alleges that misrepresentations were made to HarbourVest, including oral misrepresentations that were made on phone calls. The calendar entries will reflect who spoke to HarbourVest, when, and the potential subject matter or agenda of such calls.	The Litigation Trustee has agreed to run search terms related to HarbourVest and will produce those documents. The Trustee objects to producing any additional documents in response to this request.		This is a simple and narrowly tailored request that merely requires the Litigation Trustee to run the single search term "Harbourvest" on Outlook calendar data for 6 individuals between 1/1/2017 and 1/31/2019. The calendar data will include information such as an attendee roster that is not duplicative of the information found in searches of email and is directly relevant to the allegations concerning HarbourVest in the Amended Complaint. Calendar entries also will identify any meeting attendees whose administrative assistants added the meeting directly to their calendar, rather than via an email invite. Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to search for and produce the requested Outlook calendar data? Please also confirm whether the Litigation Trustee has preserved this Outlook calendar data.	Refused	
71	Breach of Fiduciary Duty re UBS/Sentinel	Outlook	Calendar entries of Scott Ellington, Isaac Leventon, JP Sevilla, Katie Irving, Clifford Stoops, Thomas Surgent, or Carter Chism between 4/1/2017 - 9/30/2017 in any way related to ATE, CDO Fund, HFP, Insurance, Sentinel, or UBS	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	Testimony taken in related cases indicates that there were a series of meetings related to the implementation of the Sentinel ATE policy between April and August 2017. Accordingly, Defendants require the meeting attendance rosters from Outlook in order to verify who accepted and attended such meetings.	The Trustee has agreed to run search terms related to the ATE, CDO Fund, HFP, Insurance, Sentinel, and UBS actions. The Trustee stands on its objections to producing any additional documents in response to this request.		This is a simple and narrowly tailored request that merely requires the Litigation Trustee to run 6 search terms (ATE, "CDO Fund," HFP, insurance, Sentinel, UBS) on Outlook calendar data for 7 individuals over a 6 month period (4/1/2017 - 9/30/2017). The calendar data, including attendee information, is not duplicative of the information that may be found in searches of email, and in any event, with the exception of "Sentinel" the Litigation Trustee has not even agreed to run these search terms on prepetition emails. Moreover, as stated in Defendants' November 9 response, the information is directly relevant to the allegations concerning Sentinel in the Amended Complaint. Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to search for and produce the requested Outlook calendar data? Please also confirm whether the Litigation Trustee has preserved this Outlook calendar data.	Refused	
72	Unjust Enrichment/Preference Payments Claims	Paylocity	All Paylocity system entries for Jim Dondero, Mark Okada, Scott Ellington, or Isaac Leventon (during any period Plaintiff claims is within the statute of limitations)	5/3/22 Letter 6/10/22 Letter	7/6/22 - The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time. 10/12/22 - The Trustee has created and will produce a spreadsheet detailing Paylocity system entries for Dondero, Ellington, and Leventon, and will produce it. Because Paylocity includes only salary information, the Trustee will not include Paylocity entries for Mark Okada, whose salary is not at issue. Please note that Paylocity was adopted by HCMLP in 2013, and there is no access to the predecessor system	6/14/22 Letter 7/6/22 Letter 10/12/22 Letter	Y/P	Pursue modified request	Defendants will withdraw their request as it relates to Mark Okada, but Defendants believe that Paylocity includes payments to employees for salaries, bonuses, deferred compensation, and expense reimbursements. Therefore, Defendants expect each of these records for Defendants Dondero, Ellington, and Leventon. Additionally, Defendants are entitled to all available data within Paylocity with respect to these entries, not a selection of fields or data unilaterally chosen by Plaintiff. With respect to the spreadsheet "created" by Plaintiff, Defendants request the following information: (1) who created it; (2) when was it created; (3) what criteria were used to create it; (4) what other fields/criteria were available but not included or used in the creation; (5) who instructed that it be created; (6) the names of all persons who determined the criteria for creating it and exactly which criteria were determined by which person(s); and (7) whether, with respect to the entries reflected in the spreadsheet, Paylocity contains or links to supporting documents.	To clarify, the spreadsheet that the Trustee will produce, which was generated from Paylocity, will reflect payments made via payroll, including salary, bonus, deferred compensation, and reimbursements. The Trustee understands that there is no other information stored in Paylocity.		Defendants reserve rights with respect to the information requested in their November 9 response, but will hold that portion of the request in abeyance pending production and review of the spreadsheet.	Further clarification needed on LT production position	
73	All claims	Physical Documents	The following physical documents for certain custodians: all documents, including written notes located in or collected from the desk, desk drawers, or filing cabinets (including those located proximately to or directly behind the custodians' personal desks), for the following custodians: (a)Paul Broadus (b)Matthew DiOrto (c)James Dondero (d)Scott Ellington (e)Katie Irving (f)Isaac Leventon (g)Shawn Raver (h)JP Sevilla (i)Rick Swadley (j)Stephanie Vitiello (k)Mark Patrick (l)Frank Waterhouse (m)David Klos (n)Kristin Hendrix (o)Thomas Surgent (p)Vishal Patel (q)Mark Okada (r)Michael Throckmorton	5/3/22 Letter 6/10/22 Letter	6/14/22 - Objected to production without search terms of "every document from the offices of 17 current and former HCMLP employees" and to "all electronic and physical documents possessed by certain individuals" as "overbroad and in no way calibrated to yield documents and communications relevant to the Parties' claims and defenses and proportional to the needs of the case"; "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain nonduplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case." 7/6/22 - The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	6/14/22 Letter 7/6/22 Letter	N	Pursue modified request	The physical document maintained at each custodian's desk or in proximately located filing cabinets would constitute a selection of materials specifically selected by each custodian as important or unique enough to be maintained in a physical format that was readily accessible by such custodian. In particular, any hand-written notes or annotation by any custodian would be unique documents not likely obtainable from an electronic source. Therefore, such records likely contain relevant and responses information. To the extent that the Trustee determines that it will not produce all documents in each identified physical location, it is nevertheless the Trustee's obligation to review the documents in each physical location and produce all relevant documents contained therein.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	For clarity, Defendants request that the Litigation Trustee search physical documents for the custodians identified in Annex D, Column E, using the search terms identified in Annex D, Columns A & B (or, alternatively in the event of a manual rather than electronic review, using the topics identified in Annex B). Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to produce documents in response to this modified request?	Refused
74	All claims	Physical Documents Archived at Iron Mountain	Index of all documents stored with Iron Mountain	5/3/22 Letter	Objected that "all electronic and physical documents possessed by certain individuals or stored at Iron Mountain are overbroad and in no way calibrated to yield documents and communications relevant to the Parties' claims and defenses and proportional to the needs of the case. Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain nonduplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case."	5/24/22 M&C 6/14/22 Letter	N	Pursue original request	Defendants have not requested all electronic or physical documents stored at Iron Mountain, just an index of what is stored. This should be produced. Note this was requested as a priority item in order to reduce the burden of production on Plaintiff and work cooperatively with Plaintiff to identify potentially relevant archives; Defendants reserve rights to request documents stored at Iron Mountain based on a review of the index.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	Defendants note the Litigation Trustee's refusal and reserve rights with respect to this request, but will hold this request in abeyance pending review of the Litigation Trustee's forthcoming productions from other sources.	Refused

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75	Breach of Fiduciary Duty Claims	Prepetition Documents Maintained by Vendors	(a) McKool Smith client file - all trial exhibits from the UBS Phase I trial (Supreme Court of the State of New York, County of New York, Index No. 6500972009); - all documents produced to Joshua Terry in Terry's state court lawsuit against Acis (District Court of Dallas County, Texas, 44th Judicial District, Cause No. DC-17-15244); - all documents produced to Joshua Terry in the involuntary bankruptcy proceeding instituted by Terry against Acis (referenced in ¶ 68 of the Complaint); and - all written filings, written discovery, privilege logs, legal submissions, correspondence, and trial exhibits from the Crusader arbitration against HCMLP (referenced in ¶ 84 of the Complaint). (b) Stinson LLP (as successor to Lackey Hershman LLP) client file - all written filings, written discovery, privilege logs, legal submissions, correspondence, and trial exhibits from the arbitration with Joshua Terry (referenced in ¶¶ 65-66 of the Complaint); (c) DLA Piper LLP client file - all hearing transcripts, deposition transcripts, and	5/3/22 Letter	We have requested the case files maintained by HCMLP's counsel in connection with various disputes identified by Defendants so that we may review them for potential production. Notably, Defendants have requested production of documents possessed by Stinson LLP and DLA Piper LLP as former counsel to HCMLP, notwithstanding that Stinson LLP and DLA Piper are now acting for Defendants adverse to HCMLP. The Litigation Trustee's participation in the discovery process, including notably the waiver of privilege for the pre-petition period, is premised on the assumption that Defendants' counsel will comply with all ethical obligations arising out of their past representations of HCMLP, including with respect to counsel's work product and strategic analyses that may not be reflected in any privileged communications that will be subject to disclosure. The Litigation Trustee reserves all rights in this regard.	6/14/22 Letter	M	Request agreed	To the extent that the Trustee withholds any document in this repository on the basis of any objection or claim of privilege, please identify such withheld document.	The Litigation Trustee requested from McKool Smith, Stinson LLP (as successor to Lackey Hershman LLP), and DLA Piper LLP client files for the requested documents and received no documents. The Trustee stands on its objections to the request to search the PwC client file and will not produce documents in response to this request.		Please provide a status update with respect to the requests the Litigation Trustee made to law firms. Defendants note the Litigation Trustee's refusal to search for and produce responsive documents from the PwC client file and reserve all rights.	Further clarification needed on LT production position	
76	Breach of Fiduciary Duty re UBS/Sentinel	Production Logs	For document productions made to the Unsecured Creditors Committee and UBS during the pendency of HCMLP's bankruptcy. Defendants believe such logs likely exist in the Z-legal Drive and likely were created in Excel or .csv format by Stephanie Vitello.	5/3/22 Letter	Generally objected to all 5/3 requests as overbroad.	5/24/22 M&C 6/14/22 Letter	N	Pursue original request	Amended Complaint Count V alleges, among other things, that Defendants withheld from disclosure and production documents related to certain transactions, including the Sentinel Transaction. The logs are the best source of information to determine what non-email documents were produced to the UCC and UBS during the pendency of the Bankruptcy and when such documents were produced, particularly if the Trustee continues to refuse to provide to Defendants the actual productions.	The Litigation Trustee is investigating its ability to respond to this request in a reasonable and proportionate manner and will provide a further response as soon as he is able.	RUI	Defendants first made this narrowly-tailored request in May 2022 and have received no substantive response from the Litigation Trustee in the intervening 9 months, despite numerous follow ups. This would be a discrete set of less than 50 documents readily identifiable in a document format and drive location we have identified for you. Please confirm the result of Litigation Trustee's investigation no later than one week following receipt of this response. By that date, please confirm if the Litigation Trustee will agree to produce or, if not, the basis for non-production.	No LT response	
77	All claims	SharePoint	The Legal site on SharePoint has a complete repository of corporate documents (not including portfolio companies). Produce all documents under this repository.	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue modified request	SharePoint is the primary repository for corporation organizational documents and should be searched for responsive documents. Such documents primarily include corporate governing documents (limited partnership agreements, LLCAs, shareholders agreements), corporate resolutions, organizational charts, incumbency certificates, and shared services and sub-advisory agreements. In SharePoint, there is a drop-down menu where a user can filter by documents associated with each entity. Defendants hereby request that the Trustee filter for, and produce the results of, all SharePoint documents for the following entities referenced in the Amended Complaint: (1) HCMLP; (2) Strand Advisors, Inc.; (3) James Dondero; (4) Mark Okada; (5) NexPoint Advisor, L.P.; (6) Highland Capital Management Fund Advisors, L.P.; (7) Duagboy Investment Trust; (8) Get Good Trust; (9) Hunter Mountain Investment Trust; (10) Mark & Pamela Okada Family Trust; (11) Mark & Pamela Okada Family Trust - Exempt Trust #1; (12) Mark & Pamela Okada Family Trust - Exempt Trust	The Trustee stands on his objections to this request and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	As explained in Defendants' November 9 response, the Legal site on SharePoint is merely a repository for the key corporate organizational documents for various entities. Defendants expect this request to return only about 15-20 documents per entity, and note that one half of the requested entities are Defendants, approximately one-third are alleged fraudulent transferees to Defendants, and the rest are the entities allegedly harmed in the Count V allegations. Accordingly, this request is not burdensome and seeks documents that are easily obtainable and highly relevant to the case. Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to produce the requested documents?	Refused
78	N/A	SharePoint	Server backup from the most recent date prior to 10/16/2019	5/3/22 Letter	Objected to request for production without search terms of "the full server backup for HCMLP's share drive"; objected to production of "entirety of . . . SharePoint as they existed prior to the Petition Date" "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain non-duplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case."	5/24/22 M&C 6/14/22 Letter	N	Request withdrawn	N/A				N/A (withdrawn)	

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79	Breach of Fiduciary Duty re UBS/Sentinel	SharePoint	All documents within SharePoint UBS site (should be SharePoint - Legal - Matter Management (or maybe called Litigation) - UBS (NY))	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These files relate to the UBS lawsuit allegations in Count V of the Amended Complaint. The files are litigation documents, including pleadings, deposition and hearing transcripts, and exhibits. In particular, the legal and factual allegations by UBS regarding any individual Debtor employee's responsibility for the underlying transaction or liability related thereto, as well as the Debtor's factual and legal assertions in response, will help a fact finder apportion responsibility for the UBS liability between the Defendants and other parties or persons involved in the underlying UBS transaction. While some of the pleadings are publicly available, others may be redacted or sealed. Additionally, deposition and hearing transcripts likely are not available. Finally, even the publicly available documents are well-organized in SharePoint and producing them should pose a minimal burden on the Trustee, while downloading all of the publicly available materials across multiple cases would be time-consuming for Defendants.	The Trustee will produce non-privileged responsive documents from Sharepoint UBS site that were prepared during or produced in connection with litigation with UBS.	Privilege Clarification Requested	The Trustee intends to comply with the Limited Waiver that the Parties have agreed to, i.e., a waiver of privilege over pre-petition documents. However, to the extent there are any post-petition privileged documents found in this source, the Trustee maintains its privilege objections as to those documents.	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Further clarification needed on LT production position
80	Breach of Fiduciary Duty re Acis/Terry	SharePoint	All documents within SharePoint Josh Terry site (should be SharePoint - Legal - Matter Management (or maybe called Litigation) - Josh Terry or Terry)	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These files relate to the Josh Terry lawsuits which led to the Acis liabilities alleged in Count V of the Amended Complaint. The files are litigation documents, including pleadings, deposition and hearing transcripts, and exhibits. In particular, the legal and factual allegations by Terry regarding any individual Debtor employee's responsibility for the underlying transaction or liability related thereto, as well as the Debtor's factual and legal assertions in response, will help a fact finder apportion responsibility for the Terry liability between the Defendants and other parties or persons involved in the underlying Terry transactions. While some of the pleadings are publicly available, the arbitration record is not available. Additionally, deposition and hearing transcripts even for the state-court litigation likely are not available. Finally, even the publicly available documents are well-organized in SharePoint and producing them should pose a minimal burden on the Trustee, while downloading all of the publicly available materials across multiple cases would be time-consuming for Defendants.	The Trustee will produce non-privileged responsive documents from Sharepoint Josh Terry site that were prepared during or produced in connection with litigation with Joshua Terry.	Privilege Clarification Requested	The Trustee intends to comply with the Limited Waiver that the Parties have agreed to, i.e., a waiver of privilege over pre-petition documents. However, to the extent there are any post-petition privileged documents found in this source, the Trustee maintains its privilege objections as to those documents.	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
81	Breach of Fiduciary Duty re Acis/Terry	SharePoint	All documents within SharePoint Acis site (should be SharePoint - Legal - Matter Management (or maybe called Litigation) - Acis BK)	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	allegations in Count V of the Amended Complaint. The files are litigation documents, including pleadings, deposition and hearing transcripts, and exhibits. In particular, the legal and factual allegations by Acis regarding any individual Debtor employee's responsibility for the underlying transaction or liability related thereto, as	The Trustee will produce non-privileged responsive documents from Sharepoint Acis site that were prepared during or produced in connection with litigation with Acis.	Privilege Clarification Requested	the Limited Waiver that the Parties have agreed to, i.e., a waiver of privilege over pre-petition documents. However, to the extent there are any post-petition privileged documents found in this source, the Trustee maintains its privilege objections as to those documents.	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
82	Breach of Fiduciary Duty Claims	SharePoint	All documents within SharePoint Daugherty sites (should be SharePoint - Legal - Matter Management (or maybe called Litigation) - then folders with "Daugherty" in the title (should include one for Texas and at least one, maybe more, for Delaware))	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These files relate to the Daugherty lawsuit allegations in Count V of the Amended Complaint. The files are litigation documents, including pleadings, deposition and hearing transcripts, and exhibits.	The Trustee will produce non-privileged responsive documents from Sharepoint Daugherty site that were prepared during or produced in connection with litigation with Patrick Daugherty.	Agreed Privilege Clarification Requested	The Trustee intends to comply with the Limited Waiver that the Parties have agreed to, i.e., a waiver of privilege over pre-petition documents. However, to the extent there are any post-petition privileged documents found in this source, the Trustee maintains its privilege objections as to those documents.	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed

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83	Breach of Fiduciary Duty re Crusader	SharePoint	All documents within SharePoint Crusader site (should be SharePoint - Legal - Matter Management (or maybe called Litigation) - Crusader. Will include both a site for the arbitration and a site for the arbitration award confirmation litigation.	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These files relate to the Crusader lawsuits leading to the Crusader liability alleged in Count V of the Amended Complaint. The files are litigation documents, including pleadings, deposition and hearing transcripts, and exhibits. In particular, the legal and factual allegations by Crusader regarding any individual Debtor employee's responsibility for the underlying transaction or liability related thereto, as well as the Debtor's factual and legal assertions in response, will help a fact finder apportion responsibility for the Crusader liability between the Defendants and other parties or persons involved in the underlying Crusader transactions. While some of the pleadings are publicly available, the arbitration record is not available. Additionally, deposition and hearing transcripts even for the state-court litigation likely are not available. Finally, even the publicly available documents are well-organized in SharePoint and producing them should pose a minimal burden on the Trustee, while downloading all of the publicly available materials across multiple cases would be time-consuming for Defendants.	The Trustee will produce non-privileged responsive documents from SharePoint Crusader site that were prepared during or in connection with litigation with Crusader.	Privilege Clarification Requested	The Trustee intends to comply with the Limited Waiver that the Parties have agreed to, i.e., a waiver of privilege over pre-petition documents. However, to the extent there are any post-petition privileged documents found in this source, the Trustee maintains its privilege objections as to those documents.	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Agreed
84	N/A	U-Drive	U-Drive backup from the most recent date prior to 10/16/2019.	5/3/22 Letter	To be determined	5/24/22 M&C 6/14/22 Letter	N	Request withdrawn	N/A					N/A (withdrawn)
85	All claims	U-Drive	All documents within U-Drive of (1) Leventon, (2) Ellington, (3) Dondero, (4) Sevilla, (5) DiOrio, and (6) Irving	6/10/22 Letter	The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case, and will not produce it at this time.	7/6/22 Letter	N	Pursue modified request	These documents can be gathered in a short period of time and therefore are not burdensome to collect. In addition, the selection of documents by a custodian to go in their U-Drive indicates such documents were relevant or important to such custodian's work. The Trustee should produce the entire U-Drive contents of each custodian, or if the Trustee. To the extent that the Trustee determines that it will not produce all documents in each such drive location, it is nevertheless the Trustee's obligation to review the documents in each drive location and produce all relevant documents contained therein. 1.Paul Broadas 2.Matthew DiOrio 3.James Dondero 4.Scott Ellington 5.Katie Irving 6.Isaac Leventon 7.Shawn Raver 8.JP Sevilla 9.Rick Swadley 10.Stephane Vitiello 11.Mark Patrick 12.Frank Waterhouse	The Trustee stands on its objections to this request and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	Defendants have specified in Annex D a list of search terms for the Litigation Trustee to run to identify potentially responsive documents (Columns A and B), and refined the list of custodians (Column C). Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to produce documents in response to this modified request?	Refused
86	Breach of Fiduciary Duty re Acis/Terry	U-Drive	All documents within Tim Cournoyer U-Drive under folders with "Acis" or "Terry" or "CMAO" in the name (U:/Cournoyer)	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These files relate to the Acis transfers referenced in Amended Complaint ¶¶ 208 - 212	The Litigation Trustee objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	This request is narrowly tailored, requiring the Litigation Trustee to search only documents within a specific set of folders maintained by one custodian. Nevertheless, Defendants further limit this request to documents within the time period 1/1/2016 to present. Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to produce documents in response to this modified request?	Refused
87	Breach of Fiduciary Duty re Acis/Terry	U-Drive	Search for term "Acis" within Tim Cournoyer U-Drive	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These files relate to the Acis transfers referenced in Amended Complaint ¶¶ 208 - 212	The Litigation Trustee objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	This request is narrowly tailored, requiring the Litigation Trustee to run only one search term in the files maintained by one custodian. Nevertheless, Defendants further limit this request to documents within the time period 1/1/2016 to present. Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to produce documents in response to this modified request?	Refused
88	Breach of Fiduciary Duty re Crusader	U-Drive	All documents within Leventon U-Drive under a folder labeled "Crusader" (should be U:/Leventon/Cases/Crusader)	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These files relate to the Crusader liabilities referenced in Amended Complaint ¶¶ 214 - 216	The Litigation Trustee objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	This request is narrowly tailored, requiring the Litigation Trustee to search only documents within a specific folder maintained by one custodian, Defendant Isaac Leventon. Such folder was Mr. Leventon's personal case management folder for Crusader, and is thus highly relevant to the claims alleged against Mr. Leventon with respect to his work related to Crusader. Defendants expect this request to return only about 200 documents. Defendants further revise this request to extend to folders within Mr. Leventon's U-Drive that include the terms Acis, Terry, UBS or Daugherty. Please confirm by stating "Yes" or "No"; does the Litigation Trustee refuse to produce documents in response to this modified request?	Refused
89	NPA/HCMFA Claims	U-Drive	All documents in the U-Drive of any current or former member of the Legal or Compliance teams including the terms (1) NexPoint (2) HCMFA (3) "Highland Funds" (4) Retail or (5) Institutional (see Custodian List 18) Legal Invoices Pivot Table. Defendants believe that copies of this table likely exist in the Z-legal Drive and/or in the U-Drives of Helen Kim and Isaac Leventon.	Specific Follow Up Request	To be determined	N/A	TBD	Pursue original request	These documents can be gathered in a short period of time and therefore are not burdensome to collect. In addition, the selection of documents by a custodian to go in their U-Drive indicates such documents were relevant or important to such custodian's work. The Trustee should produce the entire U-Drive contents of each custodian, or if the Trustee. To the extent that the Trustee determines that it will not produce all documents in each such drive location, it is nevertheless the Trustee's obligation to review the documents in each drive location and produce all relevant documents contained therein.	The Litigation Trustee objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and will not produce documents in response to this request.	Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	Defendants withdraw this request as it has been replaced with modified Request 85.	N/A (withdrawn)
90	N/A	U-Drive; Z-Drive		5/3/22 Letter	Generally objected to all 5/3 requests as overbroad.	5/24/22 M&C 6/14/22 Letter	N	Request withdrawn	N/A					N/A (withdrawn)

No.	Category	Non-Email Document Source	Defendants' Requests	Date(s)/Source of Request 5/3/22 - Letter re Initial Requests 6/10/22 - Letter re Priority Requests 11/9/22 - Specific Follow Up Request	Litigation Trustee's Response	Date(s)/Source of LT Response	LT Agreed to Produce? M=maybe, P=partial	Defendants' Request Status as of November 9	Defendants' November 9 Response	LT's Response as of December 12	Defendants' Dec 21 Categories [column added by LT on 1/18/23]	LT Revised Response/Clarification (1/18/23)	Defendants' Response to LT's Revised Position (3/13/23)	Defendants' Request Status (3/13/23)	
91	N/A	WallStreetOffice (WSO)	All accounts for transactions from 1/1/2009 through 10/15/2019	5/3/22 Letter	Objected to the production without search terms of "the complete records of HCMLP's accounting, payroll, tax, and investment tracking systems." "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain nonduplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case."	5/24/22 M&C 6/14/22 Letter	N	Request withdrawn	N/A					N/A (withdrawn)	
92	Fraudulent transfer claims	WallStreetOffice (WSO)	All documents related to any trade of any allegedly fraudulently transferred asset	6/10/22 Letter	7/6/22 - The Litigation Trustee will conduct a reasonable search of WallStreetOffice (WSO) for documents related to trades of allegedly fraudulently transferred assets and produce documents relevant to claims or defenses in this litigation. 10/12/22 - Based on discussions with the Reorganized Debtor, the Trustee understands that WSO does not contain this type of information.	7/6/22 Letter 10/12/22 Letter	N	Pursue modified request	WSO contains information related to the trades of assets such as equities, loans, and bonds. Therefore, the alleged transactions in the Amended Complaint involving those types of asset classes likely would be found in WSO. Therefore, the Trustee should produce all documents related to the trades involved in (a) the CLO Holdco Transaction; (b) the HE 232 Capital transaction; or (c) the transfer of assets any Highland affiliate to Sentinel Reinsurance, Ltd., as each of those transactions is referenced in the Amended Complaint.	The Trustee will produce documents sufficient to show the trades involved in the CLO Holdco Transaction, the HE 232 Capital transaction, and the transfer of assets to Sentinel Reinsurance, Ltd. related to the Sentinel transaction alleged in the Amended Complaint.	Source Clarification Requested	These documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive.	The Litigation Trustee's December 12 response that it will produce "documents sufficient to show" the specified trades is insufficient. Defendants are entitled to all data in WSO related to those trades, not a selection hand-picked by the Litigation Trustee. In addition, the Litigation Trustee's clarification of January 18 that the "documents may not come from the specifically listed sources because they are duplicative of other sources from which collection is easier, including the G Drive" is insufficient and neither confirms nor denies that it will search WSO, which is the repository where the requested information is located. Additionally, Defendants are aware that certain WSO documents were not as a matter of course saved to the G-Drive, and likely were not saved for these transactions. Please confirm by stating "Yes" or "No": does the Litigation Trustee agree to search WSO for the data related to the trades specified in Defendants' November 9 response?	Further clarification needed on LT production position	
93	N/A	Z-Drive	Z-Drive backup from the most recent date prior to 10/16/2019.	5/3/22 Letter	Objected to request for production without search terms of "entirety of HCMLP's four main servers as they existed prior to the Petition Date" "Once the Parties to come to agreement on a search protocol for HCMLP's email server, the Litigation Trustee will evaluate whether these sources contain nonduplicative documents relevant to the Parties' claims and defenses and whether a narrow, supplementary production would be proportional to the needs of the case."	5/24/22 M&C 6/14/22 Letter	N	Request withdrawn	N/A					N/A (withdrawn)	
94	Breach of Fiduciary Duty Claims	Z-Drive	Under Z-Legal, all documents from any folder with a title including the words "UBS" "Acis" "Terry" "Crusader" "Daugherty" or "Harbourvest"	6/10/22 Letter	7/6/22 - The Litigation Trustee is evaluating the relevance of this material and any applicable privileges. 7/22/22 - At M&C, Baker provided further context for Z-Legal. LT said they were pulling the folders that are relevant to this litigation and would consider this context and get back to us with a position. 10/12/22 - The Trustee objects to this request on the grounds that it is overbroad, unduly burdensome, irrelevant, and/or disproportionate to the needs of the case. Nonetheless, the Trustee has identified these folders and is in the process of exporting and reviewing them, and, subject to his Responses and Objections to Defendants Requests, will produce responsive documents to the extent they can be located and produced without undue burden.	7/6/22 Letter 7/22/22 M&C 10/12/22 Letter	Y/P	Request agreed	To the extent that the Trustee withholds any document in this repository on the basis of any objection or claim of privilege, please identify such withheld document.		Agreed	The Z Drive search results for these terms resulted in an unduly burdensome number of results, including folders that are irrelevant or disproportionate to the needs of the case. The Litigation Trustee instead has further identified the folders likely to be relevant to the litigation, and subject to its review and ongoing objections, will produce responsive documents.	Please confirm whether this has been produced or provide the final production date. Please provide a privilege log if any documents are withheld in response to this request.	Further clarification needed on LT production position	
95	Breach of Fiduciary Duty re UBS/Sentinel	Z-Drive	All documents from any folder used to track or store documents produced to the UCC, UBS, or any other party during the pendency of the Bankruptcy	6/10/22 Letter	7/6/22 - The Litigation Trustee objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. In particular, not "[a]ll documents . . . produced to the UCC, UBS, or any other party during the pendency of the Bankruptcy" are relevant to this litigation or proportional to its needs. We have received and will re-produce the documents produced to UBS. With respect to documents produced to the UCC, we understand that a large portion of those documents were produced pursuant to a common interest privilege and without any review for relevance, and that such documents came primarily from HCMLP's email server, which we are already searching via a search protocol. We are coordinating with counsel for the Debtor and UCC to understand the scope of any additional productions. 10/12/22 - The Trustee made a production on 8/26/2022 of documents that were produced in litigation regarding UBS and the UCC. We will not be producing further documents from the Z drive in response to this request. To the extent there are additional productions Defendants specifically request for production, the Trustee will consider such request.	7/6/22 Letter 10/12/22 Letter	N	Pursue original request	This is the most complete, readily accessible repository of HCMLP documents gathered by persons with knowledge in response to the Committee's requests. This is the least burdensome mechanism to provide most of the responsive categories of documents. If you cannot produce this, then please provide the list of Committee searches, the documents produced in response to each, and we can select the ones we believe are relevant. This will save the time and effort to re-gather the documents, plus will ensure that the original collection was by persons with knowledge, rather than post-effective date professionals with no personal knowledge. Alternatively, to the extent that the Trustee objects to producing all of the documents produced during the bankruptcy, Defendants request that the Trustee (a) produce all documents produced to the UCC in response to the RFPs marked as "Y" in Column C of Sheet 2 and (b) provide copies of all informal, non-RFP requests for information from the UCC to the Debtor during the bankruptcy so that Defendants may identify additional relevant requests from the UCC to which the Debtor	The Litigation Trustee objects to this request as overly broad, unduly burdensome, duplicative, and disproportionate to the needs of the case, and will not produce documents in response to this request.		Boilerplate	The Litigation Trustee has objected with particularity to this request and thus stands on his objections.	Per Defendants' November 9 response, Defendants volunteered to alleviate any burden on the Litigation Trustee by undertaking the relevance review itself (similar to what the Litigation Trustee had proposed for prepetition emails). However, to the extent the Litigation Trustee objects to that approach, Defendants request those productions made by HCMLP during the pendency of the Bankruptcy in response to requests that overlap with the claims asserted in this litigation. As noted in Defendants' November 9 response, these are identified in Annex C ("Req 95 - Sheet 2"). Please confirm by stating "Yes" or "No": does the Litigation Trustee refuse to produce documents in response to this request?	Refused

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹
Reorganized Debtor.

MARC S. KIRSCHNER, AS LITIGATION
TRUSTEE OF THE LITIGATION SUB-TRUST,
Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA;
SCOTT ELLINGTON; ISAAC LEVENTON;
GRANT JAMES SCOTT III; STRAND
ADVISORS, INC.; NEXPOINT ADVISORS,
L.P.; HIGHLAND CAPITAL MANAGEMENT
FUND ADVISORS, L.P.; DUGABOY
INVESTMENT TRUST AND NANCY
DONDERO, AS TRUSTEE OF DUGABOY
INVESTMENT TRUST; GET GOOD TRUST
AND GRANT JAMES SCOTT III, AS
TRUSTEE OF GET GOOD TRUST; HUNTER
MOUNTAIN INVESTMENT TRUST; MARK &
PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #1 AND LAWRENCE
TONOMURA AS TRUSTEE OF MARK &

Chapter 11

Case No. 19-34054-sgj11

Adv. Pro. No. 21-03076-sgj

¹ The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #1; MARK & PAMELA
OKADA FAMILY TRUST – EXEMPT TRUST
#2 AND LAWRENCE TONOMURA IN HIS
CAPACITY AS TRUSTEE OF MARK &
PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #2; CLO HOLDCO, LTD.;
CHARITABLE DAF HOLDCO, LTD.;
CHARITABLE DAF FUND, LP.; HIGHLAND
DALLAS FOUNDATION; RAND PE FUND I,
LP, SERIES 1; MASSAND CAPITAL, LLC;
MASSAND CAPITAL, INC.; AND SAS ASSET
RECOVERY, LTD.,

Defendants.

**ORDER GRANTING THE LITIGATION TRUSTEE’S
MOTION TO STAY THE ADVERSARY PROCEEDING**

Having considered the *Motion to Stay the Adversary Proceeding* (the “Motion”)² filed by Marc S. Kirschner (the “Litigation Trustee”), the Litigation Trustee of the Litigation Sub-Trust established pursuant to the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Bankr. **Dkt. 1808**]³ (as amended, the “Plan”) and plaintiff in the above-captioned adversary proceeding (the “Adversary Proceeding”), the Court finds and concludes (i) it has jurisdiction over this matter pursuant to **28 U.S.C. §§ 157** and **1334**; (b) notice of the Motion was sufficient under the circumstances; and (c) good cause exists to grant the relief requested in the Motion. Accordingly, **IT IS THEREFORE ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. All proceedings in the Adversary Proceeding are hereby **STAYED** through and including September 30, 2023, which stay will continue thereafter until any party to the Action

² Capitalized terms not otherwise defined in this Order shall have the meanings given them in the Motion.

³ “Bankr. Dkt.” refers to the docket maintained in Case No. 19-34054-sgj11 (Bankr. N.D. Tex.).

provides 30 days' written notice to all other parties and the Court of their intent to resume the Action.

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