

PACHULSKI STANG ZIEHL & JONES LLP  
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)  
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)  
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)  
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760

HAYWARD PLLC  
Melissa S. Hayward  
Texas Bar No. 24044908  
MHayward@HaywardFirm.com  
Zachery Z. Annable  
Texas Bar No. 24053075  
ZAnnable@HaywardFirm.com  
10501 N. Central Expy, Ste. 106  
Dallas, Texas 75231  
Tel: (972) 755-7100  
Fax: (972) 755-7110

*Counsel for Highland Capital Management, L.P.*

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., <sup>1</sup>	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

<sup>1</sup> Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.



**HIGHLAND CAPITAL MANAGEMENT, L.P.’S REPLY IN FURTHER SUPPORT OF  
ITS CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO  
BANKRUPTCY RULE 9024**

Highland Capital Management, L.P., the reorganized debtor (“Highland” or the “Debtor” as applicable) in the above-captioned chapter 11 case (the “Bankruptcy Case”) and the plaintiff in the above-captioned adversary proceeding (the “Adversary Proceeding”), files this *Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* (the “Reply”) in response to Daugherty’s objection to Highland’s Cross Motion [Adv. Pro. Docket No. 15] (the “Objection”).<sup>2</sup> In further support of its Cross Motion, Highland respectfully states as follows:

**REPLY**

1. Stripped of its overly aggressive rhetoric, Daugherty’s Objection dodges the merits of Highland’s Cross Motion, avoiding entirely the unforeseen and extraordinary circumstances that indisputably exist. Daugherty’s Motion should be denied, the Cross Motion should be granted, and the parties should be directed to litigate the merits of Highland’s objections to Daugherty’s Reserved Claim.<sup>3</sup>

2. Daugherty does not seriously dispute that neither the parties nor the Court nor any of Highland’s stakeholders (all of whom who had an opportunity to object to the Stay Provision)

---

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in *Highland Capital Management, L.P.’s (A) Objection to Patrick Daugherty’s Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024*. Adv. Pro. Docket No. 10 (the “Cross Motion”).

<sup>3</sup> While Daugherty cites the standard for a motion to dismiss under Rule 12(b)(6) (Objection at 4), he does not challenge *any* allegation in the Complaint and makes *no* argument that Highland’s causes of action for disallowance, estimation, and subordination lack sufficient factual support. Instead, Daugherty’s motion to dismiss is based *solely* on the Stay Provision. Just as the Court must accept well-pleaded allegations as true for purposes of a motion to dismiss, the Court should also accept as true Highland’s well-pleaded allegations concerning the IRS’s final determination of the IRS Audit. But the most efficient path forward given the indisputable and extraordinary circumstances that exist is for the Court to grant the Cross Motion, strike the Stay Provision (and avoid collateral litigation over whether the IRS has made a “final determination”), and direct the parties to litigate the merits of Highland’s objections.

foresaw in 2021 that Daugherty's Reserved Claim would remain unresolved in 2025 and would—if Daugherty has his way—serve as a barrier to Highland's commencement of the dissolution process and the ultimate conclusion of the Highland bankruptcy case.<sup>4</sup> In fact, Daugherty recently testified that when the parties were negotiating the Settlement Agreement in 2021, Jim Seery's "view was that this thing could get resolved in 2022."<sup>5</sup>

3. Now, Daugherty argues that Highland erred and "should have" negotiated an end date to the Stay Provision. But this argument proves Highland's point: Highland did not make a "mistake" because no one—neither the parties nor the Court nor any of Highland's stakeholders—thought to include an end date because no one foresaw that Daugherty's Reserve Claim would be unresolved four years later and prevent Highland from commencing dissolution. What everyone *did* foresee is that dissolution was *required* to begin no later than August 11, 2026—the maximum life of the Claimant Trust. An indefinite stay of the adjudication of Daugherty's Reserved Claim conflicts with the well-known terms of the Plan and Claimant Trust and provides further proof that an open-ended, indefinite stay was not contemplated by anyone.

4. Daugherty also ignores the consequences of his quest for a perpetual stay.<sup>6</sup> This is not a two-party dispute; indefinitely continuing the Highland bankruptcy case until the IRS Dispute is finally resolved—as Daugherty demands even though that is not the standard under the Stay Provision (*see* Objection ¶ 23)—will have a substantial and adverse impact on all

---

<sup>4</sup> It is hard to imagine the Bankruptcy Court approved the Stay Provision believing that (a) the IRS might not make a "final determination" of the IRS Audit for five or more years, and (b) the Highland bankruptcy case would remain open indefinitely until, in Daugherty's view, all appeals to every imaginable tribunal have been exhausted. Again, Daugherty doesn't seriously dispute that no one foresaw the current circumstances—which is why "manifest justice" mandates the granting of relief under Rule 60.

<sup>5</sup> Transcript, June 25, 2025, hearing at 153:12-154:10 [Docket No. 4296].

<sup>6</sup> The parties dispute whether the IRS has made a "final determination" of the IRS Audit. While Daugherty contends it hasn't, he offers no guidance as to when he believes a "final determination" might be made other than to cite to Highland's recent suggestion that litigation concerning the IRS Audit might not be complete until at least 2029; in fact, in Daugherty's view, the IRS may never make a "final determination." Motion ¶ 14.

stakeholders and the Court by unnecessarily continuing a bankruptcy case at considerable expense for no purpose other than Daugherty's misguided self-interest.<sup>7</sup> In contrast, Daugherty will not be prejudiced because he will simply defend his claim as he would have had Highland moved for estimation under Bankruptcy Code section 502(c)(1) back in 2021.

5. Finally, Daugherty's contention that Highland should be "estopped" from arguing that the IRS made a "final determination" in 2018 because it entered into the Settlement Agreement with the Stay Provision in 2021 is meritless. Highland simply "kicked the can down the road" subject to a reservation of rights. Because Highland is now near the end of the road, and Daugherty moved to dismiss based on the Stay Provision, Highland searched for and identified the documents referenced in the Cross Motion. *See* Adv. Pro. Docket No. 11, Exhibits 1-4. Daugherty was not prejudiced by the purported "delay" in Highland's pursuit of claims. To the contrary—he benefited from it by gaining four additional years for the IRS Dispute to play out.

### **CONCLUSION**

WHEREFORE, Highland respectfully requests that the Court deny the Motion, grant the Cross Motion, and direct the parties to promptly litigate the Adversary Proceeding to conclusion.

*[REMAINDER OF PAGE INTENTIONALLY BLANK]*

---

<sup>7</sup> In addition to avoiding the merits of the Cross Motion, Daugherty also ignored Highland's assertion that Daugherty's maximum underpayment exposure (and therefore the maximum amount of his claim, assuming for the sake of argument only that the Reserved Claim is valid) is \$455,000. Cross-Motion ¶ 18. Having already received over \$12 million dollars on his Class 8 and Class 9 claims, it is hard to understand Daugherty's motive in spending the time, money, and effort litigating this matter so forcefully (and opposing the recent HMIT settlement and then appealing the Bankruptcy Court's order approving it) with such relatively low stakes.

Dated: August 15, 2025.

**PACHULSKI STANG ZIEHL & JONES LLP**

Jeffrey N. Pomerantz (CA Bar No. 143717)

John A. Morris (NY Bar No. 2405397)

Gregory V. Demo (NY Bar No. 5371992)

Hayley R. Winograd (NY Bar No. 5612569)

10100 Santa Monica Blvd., 13th Floor

Los Angeles, CA 90067

Telephone: (310) 277-6910

Facsimile: (310) 201-0760

Email: [jpomerantz@pszjlaw.com](mailto:jpomerantz@pszjlaw.com)

[jmorris@pszjlaw.com](mailto:jmorris@pszjlaw.com)

[gdemo@pszjlaw.com](mailto:gdemo@pszjlaw.com)

[hwinograd@pszjlaw.com](mailto:hwinograd@pszjlaw.com)

-and-

**HAYWARD PLLC**

*/s/ Zachery Z. Annable*

---

Melissa S. Hayward

Texas Bar No. 24044908

[MHayward@HaywardFirm.com](mailto:MHayward@HaywardFirm.com)

Zachery Z. Annable

Texas Bar No. 24053075

[ZAnnable@HaywardFirm.com](mailto:ZAnnable@HaywardFirm.com)

10501 N. Central Expy, Ste. 106

Dallas, Texas 75231

Tel: (972) 755-7100

Fax: (972) 755-7110

*Counsel for Highland Capital Management, L.P.*