

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

In re:

HIGHLAND CAPITAL  
MANAGEMENT, L.P.,

Reorganized Debtor.

Chapter 11

Case No. 19-34054-sgj11

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

Plaintiff,

v.

JAMES D. DONDERO; 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;  
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.

Adv. Pro. No. 21-03076-sgj

Civil Action No. 3:22-CV-203-S

*Consolidated with:*

Case No. 3:22-CV-229

Case No. 3:22-CV-253

Case No. 3:22-CV-367

Case No. 3:22-CV-369

Case No. 3:22-CV-370



**MOTION TO REOPEN CASE AND REQUEST FOR STATUS CONFERENCE**

Plaintiff Hunter Mountain Investment Trust (“HMIT”) files this Motion to Reopen Case and Request for Status Conference (“Motion”), and respectfully shows the following:

**Introduction**

1. HMIT is the Plaintiff in this matter pursuant to an assignment of all claims in connection with a settlement approved by the Bankruptcy Court that occurred in June 2025 [Bk. Doc. 4217-1; 4297].<sup>1</sup>

2. The proceedings in this Court were abated on August 15, 2023, pursuant to the Court’s *Order* [Doc. 30] (“Abatement Order”), which was entered after the underlying Adversary Proceeding was stayed.<sup>2</sup> *See Order Granting the Litigation Trustee’s Motion to Stay the Adversary Proceeding* [Adv. Doc. 338] (“Adversary Stay Order”). When the Court administratively closed its file, the Court had not ruled on pending objections to the Bankruptcy Court’s *Report and Recommendation to the District Court Proposing That It: (A) Grant Defendants’ Motions to Withdraw the Reference at Such Time as the Bankruptcy Court Certifies That Action Is Trial Ready; but (B) Defer Pre-Trial Matters to the Bankruptcy Court* [Doc. 14-1] (“Report and Recommendation”).

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<sup>1</sup> “Bk. Doc.” refers the docket in Chapter 11 Case No. 19-34054-sgj11.

<sup>2</sup> “Adv. Doc.” refers to the docket in Adv. Pro. No. 21-03076-sgj (“Adversary Proceeding”).

3. By this Motion, HMIT seeks to reopen this matter, consents to withdrawal of the reference, and also seeks a scheduling conference pursuant to FED. R. CIV. P. 16.

### **Procedural Background**

4. The proceedings in this Court involve several consolidated objections to the Report and Recommendation, which held that the Bankruptcy Court has subject matter jurisdiction over the underlying Adversary Proceeding but recommended that the reference be withdrawn for trial due to the existence of jury trial rights. *See Status Report to District Court* [Adv. Doc. 412] ("Supplemental Report"); *Unopposed Motion to Consolidate Motions to Withdraw the Reference* [Doc. 12]; *Order* [Doc. 13].

5. On June 30, 2025, a settlement was approved by the Bankruptcy Court [Bk. Doc. 4217-1, 4297], pursuant to which the claims in the Adversary Proceeding were subsequently transferred, conveyed, and assigned to HMIT. *See Supplemental Report*, at 4. Following the settlement, the claims against HMIT, Rand PE Fund I, LP, Series 1, Charitable DAF Holdco, Ltd., Charitable DAF Fund, LP, CLO Holdco, Ltd., and Highland Dallas Foundation were dismissed,<sup>3</sup> and a subsequent *Order Granting Motion to Substitute* was signed substituting HMIT as Plaintiff in place of the Litigation Trustee [Adv. Doc. 377].

6. On September 3, 2025, HMIT issued notice of its intent to terminate the stay of the Adversary Proceeding [Adv. Doc. 375] in accordance with the Bankruptcy Court's

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<sup>3</sup> Adv. Doc. 355, 356, 382.

April 2023 Adversary Stay Order, following which the Adversary Proceeding was no longer stayed effective October 3, 2025. *See* Supplemental Report, at 4-5.

7. Shortly after the adversary stay was lifted, the Bankruptcy Court conducted a status conference and requested supplemental briefing from the parties on several issues, including the impact of the assignment to HMIT on the Bankruptcy Court's subject matter jurisdiction, if any, and the Bankruptcy Court's authority to consider emergency equitable relief. HMIT filed its brief on November 18, 2025 [Adv. Doc. 411]. The Defendants also filed briefing [Adv. Doc. 410].

8. The Bankruptcy Court subsequently published its Supplemental Report on December 18, 2025, which outlined the material events that had occurred since the case was stayed. The Bankruptcy Judge also recused herself from the case, leaving the determination on withdrawal of the reference for this Court. Supplemental Report, at 3-6.<sup>4</sup>

9. A new bankruptcy judge was appointed the following day, and a status conference was recently conducted in the Adversary Proceeding on January 27, 2026. *See* [Adv. Doc. 418]. During that status conference, HMIT advised the Bankruptcy Court that it was in the process of evaluating next steps, including a motion seeking to reopen this case in accordance with the Abatement Order so that the withdrawal of reference issue

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<sup>4</sup> The Supplemental Report also urges this Court to review the parties' supplemental briefing [Adv. Doc. 410-411].

could be resolved. The Bankruptcy Court has now scheduled another status conference for February 26, 2026, ostensibly to revisit whether continued Bankruptcy Court involvement will be necessary. [Adv. Doc. 419].

### **Relief Requested**

10. In light of this procedural history, HMIT believes that withdrawal of the reference is appropriate to facilitate the expeditious prosecution of this matter and respectfully asks the Court to terminate the Abatement Order and reopen this case for further proceedings.

11. HMIT also requests that the Court conduct a status conference pursuant to FED. R. CIV. P. 16 to address further scheduling, including hearing dates on all pending motions or remaining objections.<sup>5</sup> The Bankruptcy Court previously entered a scheduling order,<sup>6</sup> as modified by the Bankruptcy Court's Stay Order, which remains in effect. This scheduling order allows for the commencement of deposition discovery in March 2026, and HMIT seeks to move forward with such discovery at that time and opposes any further delays. Given the complex nature of the underlying claims, the significant passage

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<sup>5</sup> The Defendants filed various motions to dismiss under Rule 12 which remain pending, and which are opposed. However, the Bankruptcy Court's Report and Recommendation effectively disposes of Defendants' 12(b)(1) arguments. By filing this motion, HMIT reserves all of its substantive rights, procedural rights and arguments relating to the Defendants' motions to dismiss, any remaining subject matter jurisdiction challenges, and any remaining issues in the pending objections currently consolidated in this court.

<sup>6</sup> Adv. Doc. 337.

of time, and HMIT's pending motion for equitable relief [Adv. Doc. 379], HMIT believes that immediate discovery is needed to preserve both evidence and assets.

For the foregoing reasons, Plaintiff HMIT respectfully requests (i) that this case be reopened, (ii) that reference to the bankruptcy court be withdrawn for all purposes, (iii) that the Court set a status conference at the earliest available time mutually convenient for the parties, and (iv) that the Court grant HMIT all such other and further relief to which it may be entitled.

Respectfully submitted,

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**HUNTER MOUNTAIN INVESTMENT TRUST**

**CERTIFICATE OF CONFERENCE**

On Monday, February 9, 2026, a substantially similar copy of the Motion and a proposed order was provided to all counsel of record to confer. Counsel for Defendants NexPoint Advisors, L.P., NexPoint Asset Management, L.P. (f/k/a Highland Capital Management Fund Advisors, L.P.), James Dondero, The Dugaboy Investment Trust, The Get Good Trust, Strand Advisors, Inc., Scott Ellington, and Isaac Leventon responded and advised they do not oppose the following requested relief: reopening the case, scheduling

a status conference, and withdrawing the reference for all purposes. They otherwise object and oppose various factual averments in the Motion. No other parties responded, and accordingly, it is assumed they are opposed.

/s/ Ian B. Salzer  
Ian B. Salzer

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served on February 10, 2026, in compliance with the Federal Rules of Civil Procedure.

/s/ Ian B. Salzer  
Ian B. Salzer

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
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**ORDER GRANTING MOTION TO REOPEN CASE AND REQUEST FOR STATUS  
CONFERENCE**

The Court, having considered Plaintiff Hunter Mountain Investment Trust's ("HMIT") Motion to Reopen Case and Request for Status Conference ("Motion"), finds that the Motion should be and is **GRANTED**.

**IT IS THEREFORE ORDERED** that this case is reopened, and the clerk is directed to restore this matter to the Court's active docket.

**IT IS FURTHER ORDERED** that a status conference will be held on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

**SO ORDERED.**

SIGNED \_\_\_\_\_, 2026

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**KAREN GREN SCHOLER  
UNITED STATES DISTRICT JUDGE**