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**COUNSEL FOR CLO HOLDCo, LTD. AND THE
LAW FIRMS**

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

In re:)
) Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹)
) Case No. 19-34054-sgj11
)
Debtor.)
)
)

**MOTION TO QUASH REQUESTS FOR PRODUCTION OF DOCUMENTS
SERVED IMPROPERLY**

CLO Holdco, Ltd. (“CLO Holdco”); Shields Legal Group, P.C. (“Shields”); and Kelly Hart & Hallman LP (“Kelly Hart,” with Shields, the “Law Firms”) hereby submit this *Motion to Quash* (the “Motion to Quash”). CLO HoldCo and the Law Firms (together, the “Moving Parties”) were not properly served with subpoenas for document production (the “Requests”) by Dugaboy

¹ 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.



Investment Trust (“Dugaboy”) in connection with the *Motion to Reconsider the 9019 Order* [Dkt. No. 4513] (the “Rule 60(b) Motion”). Thus, the Moving Parties move to quash the Requests.

RELEVANT FACTUAL BACKGROUND

1. The Rule 60(b) Motion concerns the reconsideration of that certain settlement pursuant to rule 9019 of the Fed. R. Bankr. P. 9019 settlement (the “9019 Settlement”) between and among Highland Capital Management, L.P. (“HCMLP”), the Highland Claimant Trust (the “Claimant Trust”), the Highland Litigation Sub-Trust (the “Litigation Sub-Trust”), and the Highland Indemnity Trust (the “Indemnity Trust”, and together with Highland, the Claimant Trust and the Litigation Sub-Trust, the “Highland Entities”), on the one hand, and Hunter Mountain Investment Trust (“HMIT”), Beacon Mountain LLC (“Beacon Mountain”), Rand Advisors, LLC (“Rand Advisors”), Rand PE Fund I, LP (“Rand PE Fund”), Rand PE Fund Management, LLC (“Rand GP”), Atlas IDF, LP, (“Atlas IDF”), Atlas IDF GP, LLC, (“Atlas GP” and together with HMIT, Beacon Mountain, Rand Advisors, Rand PE Fund, Rand GP, Atlas IDF, the “HMIT Entities”) on the other.

2. The HMIT Entities were represented by Kelly Hart in connection with the 9019 Settlement contested matter (the “9019 Matter”).

3. Kelly Hart has represented CLO HoldCo in other contested matters and adversary proceedings related to the above-captioned bankruptcy case (the “Bankruptcy Case”), but CLO HoldCo was not party to the 9019 Settlement.

4. The 9019 Settlement provided that a cash payment to HMIT was to be made care of a subsidiary of CLO HoldCo. 9019 Settlement, ¶3. Additionally, CLO HoldCo was a joining party to that certain Confidentiality Agreement that many parties executed to facilitate settlement negotiations. *See*. Dkt. No. 4255-6.

5. But CLO HoldCo was *not* a party to the 9019 Settlement and did not appear in connection with the 9019 Matter through Kelly Hart or other counsel.

6. Shields did not represent any of the HMIT Entities in connection with the 9019 Matter nor otherwise appear as counsel in the Bankruptcy Case.

7. On March 23, 2026, undersigned counsel received requests for production via email purportedly addressed to CLO HoldCo through undersigned counsel (Exhibit A) containing seventy-four (74); and Kelly Hart (Exhibit B), containing seventy-seven (77) of document requests

8. Kelly Hart is not authorized to accept service via email on behalf of CLO HoldCo in the 9019 Matter.

9. The attorneys of Kelly Hart who received the Requests are not the agents for service of Kelly Hart, nor have they otherwise indicated to Dugaboy or anyone else that they would or even could accept service on Kelly Hart's behalf.

10. Shields likewise received requests for production via email on March 23, 2026 (Exhibit C, Exhibits A-B (the "Shields Requests").

11. The attorneys of Shields who received the Requests have never indicated to Dugaboy that they would or even could accept service on Shields' behalf of email transmitted requests for production of documents or of subpoenas.

BASIS FOR MOTION TO QUASH

12. By filing this Motion to Quash, the Moving Parties expressly do not waive service defects.

13. The Moving Parties are not parties to the 9019 Mater and must be served with a subpoena pursuant to rule 45 of the Federal Rules of Civil Procedure ("Rule 45").

14. Rule 9016 of the Federal Rules of Bankruptcy Procedure ("Rule 9016") applies Rule 45 to bankruptcy cases.

15. The Requests themselves specifically state they are propounded pursuant to Rule 9016.

16. Rule 9076-1 of this Northern District of Texas Local Bankruptcy Rules specifically *prohibit* the service of a subpoena under Fed. R. Bankr. P. 9016 via electronic transmission, and the Moving Parties here submit that in the circumstances here (purported respondents who are not parties to the 9019 Settlement or to the motion before the Court), this Rule more forcefully precludes the service of requests for production via email without consent.

17. The Moving Parties have not and do not consent to service of either document requests or a subpoena via electronic means.

18. Thus, the Moving Parties timely file this Motion to Quash based upon the defects in service. *See* Fed. R. Civ. P. 45(d)(2)(B).

19. In so doing, the Moving Parties expressly reserve their rights to lodge such substantive objections and move for a protective order to the extent these service defects are cured or the Motion to Quash overruled.²

CONCLUSION

20. The Moving Parties specifically move this Court for entry of an order finding that sending the Requests via email as described herein is not proper service of the Requests and that the Requests be quashed.

[signature block on next page]

² Specifically, this Court will consider the propriety of such extensive discovery requests in connection with the *Motion for Protective Order against the Dugaboy Investment Trust's Discovery Truste's Discovery Requests* [Dkt. No. 4533] (the "Motion for Protective Order") filed by HCMLP. The Moving Parties believe it is premature to join in a substantive request for protective order as in fact they have not been served so cannot be involved in the proceedings involving the Motion for Protective Order. But the Moving Parties reserve all rights.

Respectfully Submitted:

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/s/ Louis M. Phillips

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***Counsel for CLO HoldCo, Ltd. and the
Firms for the limited purpose of this Motion
to Quash***

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that a copy of the forgoing was served on all parties receiving notice in this chapter 11 case through this Court's CM/ECF System on this April 6, 2026.

/s/ Louis M. Phillips

Louis M. Phillips (#10505)

CERTIFICATE OF CONFERENCE

I, undersigned counsel, hereby certify that prior to filing the forgoing, I emailed counsel for Dugaboy to ask for a withdraw of the Requests for improper service. Dugaboy has declined to withdraw the Requests.

/s/ Louis M. Phillips
Louis M. Phillips (#10505)

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ORDER QUASHING REQUESTS

Having considered that certain *Motion to Quash* (the “Motion to Quash”)² filed by CLO Holdco, Ltd. (“CLO Holdco”); Shields Legal Group, P.C. (“Shields”); and Kelly Hart & Hallman LP (“Kelly Hart,” with Shields, the “Law Firms”) regarding those certain document production (the “Requests”) by Dugaboy Investment Trust (“Dugaboy”) in connection with the 9019 Motion,

¹ 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.

² Capitalized terms not otherwise defined herein take their meaning from the Motion to Quash.

and having determined that CLO HoldCo and the Law Firms were not properly served with the Requests by Dugaboy,

IT IS ORDERED THAT the Motion to Quash is **GRANTED**.

IT IS FURTHER ORDERED THAT CLO HoldCo and the Law Firms shall have no obligations regarding the Requests to respond, object, or otherwise unless and until the Requests are properly served.

IT IS FURTHER ORDERED THAT CLO HoldCo and the Law Firms shall have all rights to object, move for a protective order, join in the Motion for Protective Order or otherwise if the Requests are subsequently properly served.