Docket #0048 Date Filed: 6/24/2026

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 LIFT STAY

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Plaintiff Hunter Mountain Investment Trust ("HMIT") files this Motion to Lift Stay ("Motion"), and respectfully shows the following:

Introduction

1. Although Defendants appear reluctant to clearly state whether they oppose this Motion, they "suggest" that the Court should postpone lifting the stay until yet another motion for reconsideration is filed and addressed in the Bankruptcy Court. *See* Certificate of Conference. Regardless, the effect of this "suggestion" is the same—*more delay*.

2. This matter was stayed pursuant to the Court's May 7, 2026, Order [Doc. 44] ("Stay Order"), pending resolution of Dugaboy's *Motion for Relief from Order and Motion to Vacate* [Bk. Doc. 4513] ("Motion to Vacate").[1] Dugaboy has since lost the Motion to Vacate: on June 15, 2026, Bankruptcy Judge O'Dell entered a *Memorandum Opinion* [Bk. Doc. 4678] and *Order* [Bk. Doc. 4679] denying the Motion to Vacate. A joint notice of Judge O'Dell's ruling was filed by the parties on June 17, 2026 [Doc. 45]. Defendants now seek to postpone the prosecution of this case by claiming that Dugaboy intends to move for a rehearing on the Motion to Vacate.

3. The Motion to Vacate was, for all practical purposes, a motion to rehear the Bankruptcy Court's order that approved a settlement heralded as "one of the most

[1] "Bk. Doc." refers the docket in Chapter 11 Case No. 19-34054-sgj11, *In re: Highland Capital Management, L.P.* ("Bankruptcy Case").

significant developments in the long-running Highland Bankruptcy Case,"[2] which included the assignment of the claims in this matter to HMIT. Nevertheless, Dugaboy objected to that settlement, but its objections were overruled. *See Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. § 363 Approving Settlement Between the Highland Entities and the HMIT Entities and Authorizing Actions Consistent Therewith* [Bk. Doc. 4297] ("Settlement Order"). Dugaboy also appealed and requested a stay of the Settlement Order from the Bankruptcy Court [Bk. Doc. 4326], which was denied. *See Memorandum Opinion and Order Regarding Stay Requests [Addressing De ## 4326 & 4308]* [Bk. Doc. 4333]. Dugaboy then filed its Motion to Vacate nearly a year after the issuance of the Settlement Order, notwithstanding having appealed and having its requests for stay denied. But, as Judge O'Dell recently stated, the Motion to Vacate presented "no[] newly discovered evidence that necessitates vacatur of the [Settlement Order]." [Bk. Doc. 4678, ¶ 23].

4. Now, once again, Dugaboy wants another bite out of the same apple, saying without really saying, that it intends to seek another rehearing, this time of the denial of rehearing, related to an order approving a settlement that has been fully implemented. All objections to the Settlement Order have been rejected, now twice, by two different bankruptcy judges.[3]

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[2] *Motion For Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. § 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith* [Bk. Doc. 4216], ¶ 2.

[3] *See* [Bk. Doc. 4297, 4678].

Background

5. This case was first filed as an adversary proceeding[4] in October 2021 by a litigation sub-trust created pursuant to HCM's plan of reorganization. The Settlement Order was entered on June 30, 2025, following which the claims in the Adversary Proceeding were subsequently transferred, conveyed, and assigned to HMIT. *See Status Report to District Court* [Adv. Doc. 412], at 4; [Bk. Doc. 4217-1, 4297]. In addition, 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,[5] and an *Order Granting Motion to Substitute* [Adv. Doc. 377] was signed in the Adversary Proceeding substituting HMIT as Plaintiff in place of the Litigation Trustee. Defendants also opposed HMITs motion for this substitution, but their objections were likewise overruled. *See* [Adv. Doc. 362-364, 377].

6. On February 10, 2026, HMIT filed a Motion to Reopen Case and Request for Status Conference in this Court [Doc. 32], which resulted in the Court conducting a status conference on May 6, 2026 ("Status Conference"). Following that Status Conference, the Court stayed these proceedings pending a ruling by Judge O'Dell on the Motion to Vacate. The Court's Stay Order provided that any party could seek to lift the stay. HMIT is doing so now.

[4] "Adv. Doc." refers to the docket in Adv. Pro. No. 21-03076-sgj ("Adversary Proceeding").

[5] Adv. Doc. 355, 356, 382.

7. During the Status Conference, the Court instructed the parties to undertake specific procedural steps, including submission of an agreed order withdrawing the reference and to confer hopefully to reach an agreed scheduling order. The Court also instructed HMIT to amend the live complaint, modifying the style to formally identify HMIT as the plaintiff and deleting currently named parties who are no longer parties in these proceedings.

8. As requested by the Court, HMIT's counsel intends to confer with opposing counsel in an effort to agree to an order to withdraw the reference and a proposed scheduling order. However, in light of Defendants' *suggested* position to further delay these proceedings, it is unclear what HMIT can do to fully comply with the Court's instructions under the timelines imposed by the Court. Nevertheless, HMIT will continue to seek Defendants' cooperation in complying with the Court's instructions.

For the foregoing reasons, Plaintiff Hunter Mountain Investment Trust respectfully requests that the stay imposed by the Court's Stay Order be lifted so that this case may proceed in this Court without further delay, and that the Court grant HMIT all such other and further relief to which it may be entitled.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF
HUNTER MOUNTAIN INVESTMENT TRUST

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on June 24, 2026, in compliance with the Federal Rules of Civil Procedure.

/s/ Ian B. Salzer
Ian B. Salzer

CERTIFICATE OF CONFERENCE

I certify that a videoconference was conducted between counsel for the parties on June 22, 2026. Following that videoconference, counsel for Defendants sent an email requesting the following language be included in the certificate of conference:

> "HMIT conferred with Defendants and reports that Defendants wish to bring to the Court's attention that they understand that Dugaboy intends to seek reconsideration of the bankruptcy court's denial of the motion to vacate. As such, Defendants suggest awaiting the outcome of the motion for reconsideration before lifting the stay. Defendants also report that there is

an appeal pending of the bankruptcy court's original approval of the settlement by which the claims in this suit were transferred to HMIT."

/s/ *Ian B. Salzer*
Ian B. Salzer

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ORDER LIFTING STAY

The Court, having considered Plaintiff Hunter Mountain Investment Trust's ("HMIT") Motion to Lift Stay ("Motion"), any response, reply and arguments of counsel, finds that the Motion should be and is **GRANTED**.

IT IS THEREFORE ORDERED that the stay imposed by the Court's May 7, 2026, Order [Doc. 44] is lifted for all purposes.

SO ORDERED.

SIGNED _____, 2026

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KAREN GREN SCHOLER
UNITED STATES DISTRICT JUDGE