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September 18, 2026

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The Honorable Brantley Starr
United States District Judge
Northern District of Texas
Earle Cabell Federal Building
and U.S. Courthouse
1100 Commerce St, Room 1528
Dallas, TX 75242

Re: **The Dugaboy Investment Trust v. Highland Capital Management, L.P., Case No. 3:26-cv-02315-X (Appellants' Motion for Certification of Direct Appeal Under 28 U.S.C. § 158(d)(2))**

Dear Judge Starr:

We represent Highland Capital Management, L.P. ("Highland") in the above-referenced appeal. While we are loath to burden the Court, it has now become clear that James Dondero, acting on behalf of his trust, The Dugaboy Investment Trust ("Dugaboy"), is engaged in a scheme to make it appear that there is a sudden groundswell of interest by numerous state Attorneys General in the seven-year-old Highland case, particularly the Rule 9019 settlement approved in June 2025.

On September 16, 2026, Highland filed a letter with the Court addressing a peculiar letter sent by the Attorney General of the State of Oklahoma. The Oklahoma Attorney General's letter was unusual because Oklahoma has no direct interest in the Highland bankruptcy case or in the private dispute between Mr. Dondero and Mark Patrick. ECF Doc. 35.

On September 17, 2026, at 9:27 a.m., we received another letter, this one from the Attorney General of the State of Iowa (a copy of which is attached as **Exhibit A**). The State of Iowa likewise has no apparent connection to Highland, Mr. Patrick, Mr. Dondero, or even the Fifth Circuit. More troubling still is that the Iowa Letter is nearly

identical to the Oklahoma Letter (but for changes to reflect the statutes of the respective states). Attached as **Exhibit B** is a black line comparing the two letters, showing the exact same language was used in substantial portions of the letters.

These developments would be highly suspicious by themselves, but at 11:45 a.m. yesterday morning, counsel for Highland was copied on an e-mail string that revealed the true origin of this sudden purported interest among state Attorneys General: **Mr. Dondero and Dugaboy have apparently hired a Washington D.C. commercial organization called "Attorney General Strategies LLC" to procure support for Mr. Dondero's crusade.** (*See* https://attorneygeneralstrategies.com). That email indicates that Mr. Dondero's lobbying effort continues to be aimed indiscriminately, including at states with no connection to the Highland case (in the email, it is the State of South Dakota). A copy of the e-mail string is attached as **Exhibit C**.

To emphasize the point, at 5:51 p.m. yesterday, the Attorney General of the State of Montana sent yet another letter (a copy of which is attached as **Exhibit D**), which, again, comes from a state with no connection to the Highland case and is nearly identical to the Attorney General of Oklahoma's letter (see the black line attached as **Exhibit E**).

At the very least, it is troubling that Dugaboy and Mr. Dondero have concealed their obvious role in orchestrating this letter-writing campaign, their engagement of Attorney General Strategies LLC, and the extent to which that firm and the players in this covert effort have been compensated for procuring such purportedly spontaneous submissions

We understand Dugaboy intends to ignore Highland's previously filed and fully briefed motion to have this appeal designated as "related" to the Rule 9019 Appeal (*see* ECF Doc. 4) and its own motion to consolidate this appeal and the Rule 59 Appeal pending before Judge Fitzwater (*see* ECF Doc. 33) and will instead move to have Highland's motion to consolidate stayed in favor of direct review of this appeal. Highland will oppose that motion in due course but leaves it to the Court to decide whether to inquire into the matters addressed herein.

In any event, for the reasons set out in our letter to the Court of September 16, we respectfully request that this Court ignore the letters from persons and entities that are not parties in interest in this bankruptcy case and the related appeals.

Highland otherwise reserves all rights.

Respectfully submitted,

/s/ John A. Morris

John A. Morris

EXHIBIT A

Zachery Annable

From: Wessan, Eric <Eric.Wessan@ag.iowa.gov>
Sent: Thursday, September 17, 2026 8:27 AM
To: mburrage@whittenburragelaw.com; Melissa Hayward; mstancil@wilkie.com; gharper@kslaw.com
Subject: Iowa Letter re 3:26-cv-02315 Certification
Attachments: 09.16 - In re Highland Capital Management Letter - Final.pdf

Counsel:

Please find attached a letter regarding the Iowa Attorney General's Position on the forthcoming section 158(d)(2) certification request in N.D. Texas Case No. 3:26-cv-02315. My understanding is that this will be submitted as an exhibit to the motion.

Best,
EHW

Eric Wessan
Solicitor General
Office of Iowa Attorney General Brenna Bird
1305 E. Walnut St.
Des Moines, IA 50319
(515) 823-9117

BRENNA BIRD
ATTORNEY GENERAL

1305 E. WALNUT ST.
DES MOINES, IA 50319
515-281-5164
www.iowaattorneygeneral.gov

IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

The Honorable Brantley Starr
United States District Judge
Northern District of Texas
Earle Cabell Federal Building and U.S. Courthouse
1100 Commerce St., Room 1528
Dallas, TX 75242

Re: *In re Highland Capital Management, L.P.*, Bankruptcy Case No. 19-34054-sgj11; District Court Case No. 3:26-cv-02315 – Certification of Direct Appeal Under 28 U.S.C. § 158(d)(2)

Dear Judge Starr:

The State of Iowa respectfully submits this letter supporting certification of a direct appeal to the United States Court of Appeals for the Fifth Circuit from the Court's June 15, 2026 order denying relief under Rule 60. Dkt. 4678.

This letter will be submitted as an exhibit to the Motion for Certification of Direct Appeal filed by The Dugaboy Investment Trust, and Iowa seeks no relief independent of that motion. Iowa takes no position on the merits of the Rule 60 motion, on any disputed fact, or on the conduct of any party or fiduciary. Instead, the State weighs in because the order presents questions of law that satisfy the certification standards of 28 U.S.C. § 158(d)(2), and those questions' resolution by the court of appeals matters to States charged with protecting charitable assets.

Iowa's interest arises from the Attorney General's traditional police power role. By statute, the Attorney General prosecutes and defends actions and proceedings in any court or tribunal in which the state may be a party or interested, or when the interest of the state requires such action. Iowa Code § 13.2. Iowa's Trust Code makes that authority explicit as to charitable trusts: "The attorney general may investigate a charitable trust to determine whether the charitable trust is being administered in accordance with law and the terms and purposes of the trust," and "may apply to a district court for such orders that are reasonable and necessary to carry out the terms and purposes of the trust." Iowa Code § 633A.5108.

Like her counterparts nationwide, she bears responsibility for representing the public's interest in charitable assets. That responsibility exists because charitable beneficiaries are often indefinite and cannot enforce fiduciary duties themselves. Donor-advised funds now carry a substantial share of that public trust. The DAF Research Collaborative's Spring 2026 update reports around 3.59 million donor-advised-fund accounts holding $327.87 billion in assets, with $64.60 billion in grants in fiscal year 2024. *See* H. Daniel Heist et al., *The Annual DAF Report 2025: Updated Analysis Memo* (Donor Advised Fund Rsch. Collaborative Apr. 2026), https://bit.ly/4xSlfaK at 3. Because DAF sponsors, donors, and grantee charities routinely operate across state lines, the questions presented here reach Iowa's donors and charitable institutions no less than those of any other State.

The significance of those numbers and breadth of potential application satisfies the statute. On those grounds alone, certification is warranted. *See* 28 U.S.C. § 158(d)(2)(A)(i), (iii); *see* 28 U.S.C. § 158(d)(2)(B). Each independent statutory ground to justify certifying such an appeal is present.

First, there is no controlling decision. The Supreme Court recently reserved a similar question in *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, 226–27 (2024). The Rule 60 proceedings here present a closely related and equally unresolved question: how a court should evaluate settlement authority and consent when later-developed evidence bears on claim ownership, signatory authority, and the alignment of the parties said to have consented. Neither the Fifth Circuit nor the Supreme Court has addressed how the materiality standard under Rule 60 applies where the challenged conduct also implicates a State's charitable-enforcement jurisdiction.

Second, the matter is one of public importance. The motion describes a layered, multistate charitable structure involving four established community foundations and entities alleged to have held more than $270 million. On July 9, 2025, the Texas Attorney General advised this Court that his office represents the public's interest in charity, that it had issued Civil Investigative Demands to people and entities involved in this proceeding, and that it sought a short pause to assess whether further action was necessary. That submission's significance is institutional too, a sovereign regulator alerted a federal court that public-law interests were under examination while the case moved toward settlement and release.

Whether, and how, such a sovereign submission bears on federal settlement review is a recurring question at the boundary of federal bankruptcy administration and state charity supervision, and it warrants an answer from the court of appeals.

Third, direct review may materially advance this long-running proceeding. The certified questions are purely legal. Their resolution does not depend on more factfinding, and controlling guidance from the Fifth Circuit will supply a definitive framework for this order and for any related proceedings, in whichever direction that guidance runs.

Certification will not resolve any factual dispute, disturb any finding of this Court, or confer any remedy, and the court of appeals will still retain full discretion whether to authorize the appeal. 28 U.S.C. § 158(d)(2)(A). But certifying the appeal will ensure that recurring legal questions affecting charitable assets in every State receive a controlling answer.

Iowa therefore respectfully supports certification under 28 U.S.C. § 158(d)(2).

Respectfully,

BRENNA BIRD
Attorney General of Iowa

/s/ Eric H. Wessan

Eric H. Wessan
Solicitor General
1305 E. Walnut Street
Des Moines, Iowa 50319
(515) 823-9117
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Counsel for State of Iowa

EXHIBIT B

~~ENTH ER DRUMMOND~~
ATTORNEY ~~EN ERAS~~ GENERAL

BRENNA BIRD
~~August 21, 2026~~

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IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

The Honorable Brantley Starr
United States District Judge
Northern District of Texas
Earle Cabell Federal Building and U.S. Courthouse
1100 Commerce St., Room 1528~~,~~ Dallas, TX 75242

Re: *In re Highland Capital* ~~Manageiiienl~~*Management*, *L.P.*, Bankruptcy Case No. ~~19-341154~~19-34054-sgj11~~—~~; District Court Case No. 3:26-cv- 02315 – Certification of Direct Appeal Under 28 U.S.C. § 158(d)(2)

Dear Judge Starr:

The State of ~~Oklahoma~~Iowa respectfully submits this letter ~~in support of~~supporting certification of a direct appeal to the United States Court of Appeals for the Fifth Circuit from the Court's June 15, 2026 order denying relief under Rule 60. Dkt. ~~No.~~ 4678. ~~Oklahoma understands that this~~

This letter will be submitted as an exhibit to the Motion for Certification of Direct Appeal filed by The Dugaboy Investment Trust, and ~~Oklahoma~~Iowa seeks no relief independent of that motion. ~~Oklahoma~~Iowa takes no position on the merits of the Rule 60 motion, on any disputed fact, or on the conduct of any party or fiduciary. ~~Its interest is narrower and institutional:~~Instead, the State weighs in because the order presents questions of law that satisfy the certification standards of 28 U.S.C. § 158(d)(2), and ~~their~~those questions' resolution by the court of appeals matters to ~~every State~~States charged with protecting charitable assets.

Oklahoma Iowa's interest arises from the Attorney General's traditional public police power role. The Oklahoma By statute, the Attorney General is a constitutional officer and the State's chief law officer, authorized to appear prosecutes and defends actions and proceedings in any court or tribunal in which the state may be a party or interested, or when the interests interest of the State or its people are at issue. Okla. Const. art. VI, § 1; Okla. Stat. tit. 74, §§ 18, 18b(A)(3) state requires such action. Iowa Code § 13.2. Iowa's Trust Code makes that authority explicit as to charitable trusts: "The attorney general may investigate a charitable trust to determine whether the charitable trust is being administered in accordance with law and the terms and purposes of the trust," and "may apply to a district court for such orders that are reasonable and necessary to carry out the terms and purposes of the trust." Iowa Code § 633A.5108.

Like his counterpans her counterparts nationwide, he also she bears the common-law responsibility of for representing the public's interest in charitable assets a. That responsibility that exists because charitable beneficiaries are often indefinite and cannot enforce fiduciary duties themselves. Donor- advised funds now carry a substantial share of that public trust. The DAF Research Collaborative's Spring 2026 update reports approximately around 3.59 million donor-advised- fund accounts holding $327.87 billion in assets, with $64.60 billion in grants in fiscal year 2024. *See* H. Daniel Heist et al., *The Annual DAF Report 2025: Updated Analysis Memo* (Donor Advised Fund Rsch. Collaborative Apr. 2026), https://bit.ly/4xSlfaK at 3. Because DAF sponsors, donors, and grantee charities routinely operate across state lines, the questions presented here reach Oklahoma Iowa's donors and charitable institutions no less than those of any other State.

Those questions satisfy the statute. Certification is warranted-and, upon the requisite determination, required-where an order "involves a question of law as to which there is no controlling decision" of the court of appeals or the Supreme Court, "involves a matter of public

~~importance," or presents an appeal whose direct review "may materially advance the progress of the case."~~The significance of those numbers and breadth of potential application satisfies the statute. On those grounds alone, certification is warranted. *See* 28 U.S.C. § 158(d)(2)(A)(i), (iii); *see* ~~*id*~~28 U.S.C. § 158(d)(2)(B) ~~(court "shall make the certification" upon determining that a specified circumstance exists)~~. Each independent statutory ground to justify certifying such an appeal is present.

First, there is no controlling decision. ~~In~~The Supreme Court recently reserved a similar question in *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, ~~226-27~~226–27 (2024)~~, the Supreme Court expressly reserved the question of what qualifies as a consensual release~~. The Rule 60 proceedings here present a closely related and equally unresolved question: how a court should evaluate settlement authority and consent when later-developed evidence bears on claim ownership, signatory authority, and the alignment of the parties said to have consented. Neither the Fifth Circuit nor the Supreme Court has addressed how the materiality standard under Rule 60 applies where the challenged conduct also implicates a State~~'~~'s charitable- enforcement jurisdiction.

Second, the matter is one of public importance. The motion describes a layered, multistate charitable structure involving four established community foundations and entities alleged to have held more than $270 million. On July 9, 2025, the Texas Attorney General advised this Court that his office represents the public's interest in charity, that it had issued Civil Investigative Demands to ~~persons~~people and entities involved in this proceeding, and that it sought a short pause to assess whether further action was necessary. ~~Bankr. Dkt. 4308. Oklahoma expresses no view on the subjects, merits, or outcome of that investigation. The~~That submission's significance is institutional~~:~~ too, a sovereign regulator alerted a federal court that public-law interests were under examination while the case moved toward settlement and release.

Whether, and how, such a sovereign submission bears on federal settlement review is a recurring question at the boundary of federal bankruptcy administration and state charity supervision, and it warrants an answer from the court of appeals.

Third, direct review may materially advance this long-~~winning~~ running proceeding. The certified questions are purely legal. Their resolution does not depend on ~~further~~more factfinding, and controlling guidance from the Fifth Circuit ~~in a single step would~~will supply a definitive framework for this order and for any related proceedings, in whichever direction ~~lhat~~that guidance runs.

Certification ~~would~~will not resolve any factual dispute, disturb any finding of this Court, or confer any remedy, and the court of appeals ~~would~~will still retain full discretion whether to authorize the appeal. 28 U.S.C. § 158(d)(2)(A). ~~It would~~But certifying the appeal will ensure ~~only~~ that recurring legal questions affecting charitable assets in every State receive a controlling answer. ~~Oklahoma~~

Iowa therefore respectfully supports certification under 28 U.S.C. § 158(d)(2).

Respectfully, BRENNA BIRD
Attorney General of Iowa



/s/ Eric H. Wessan
Eric H. Wessan Solicitor General
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Des Moines, Iowa 50319
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eric.wessan@ag.iowa.gov

Counsel for State of Iowa

Document comparison by Workshare on Thursday, September 17, 2026 10:20:26 AM

Input:	
Document 1 ID	Letter dated 8-21-26 from G. Drummond Atty General re Highland Capital Management, L.P..pdf
Description	originalDocument
Document 2 ID	09.16 - In re Highland Capital Management Letter - Final.pdf
Description	modifiedDocument
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
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Style change	
Format change	
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Inserted cell	
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Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary:		
No.	**Change**	**Text**
1	Deletion	~~ENTII ER DRUMMOND~~
2	Insertion	BRENNA BIRD
3-4	Change	ATTORNEY ~~EN ERAS~~ GENERAL
5	Deletion	~~August 21, 2026~~
6	Insertion	
7	Insertion	IOWA DEPARTMENT OF...OF THE

		ATTORNEY GENERAL
8	Insertion	1305 E. WALNUT ST. DES…IA 50319 515-281-5164
9	Insertion	www.iowaattorneygeneral.gov
10	Insertion	U.S. Courthouse 1100 Commerce St., Room 1528
11	Deletion	, Room 1528,
12-13	Change	Re: In re Highland Capital ManageiiienlManagement, L.P.,
14	Insertion	, L.P., Bankruptcy Case No.
15-16	Change	Case No. 19-3411519-34054-sgj11
17	Deletion	-sgj11 –
18	Insertion	; District Court Case No. 3:26-cv- 02315 – Certification of Direct Appeal Under
19-20	Change	The State of OklahomaIowa respectfully submits this letter
21-22	Change	respectfully submits this letter in support ofsupporting certification of a direct appeal
23	Deletion	denying relief under Rule 60. Dkt. No. 4678.
24	Deletion	4678. Oklahoma understands that this
25	Insertion	This letter will be submitted as an
26-27	Change	The Dugaboy Investment Trust, and OklahomaIowa seeks no relief independent of
28-29	Change	relief independent of that motion. OklahomaIowa takes no position on the merits
30-31	Change	conduct of any party or fiduciary. Its interest is narrower and institutional:Instead, the State weighs in because the order presents questions of

32-33	Change	standards of 28 U.S.C. § 158(d)(2), and ~~their~~those questions' resolution by the court of appeals
34-35	Change	the court of appeals matters to ~~every State~~States charged with protecting charitable
36-37	Change	~~Oklahoma~~Iowa's interest arises from the Attorney
38-39	Change	Attorney General's traditional ~~public~~police power role.
40-41	Change	role. ~~The Oklahoma~~By statute, the Attorney General
42-43	Change	Attorney General ~~is a constitutional...authorized to appear~~prosecutes and defends...party or interested, or when the
44-45	Change	when the ~~interests~~interest of the
46-47	Change	of the ~~State or its people are...74, §§ 18, 18b(A)(3)~~state requires such...Iowa Code § 633A.5108.
48-49	Change	Like ~~his counterpans~~her counterparts nationwide,
50-51	Change	nationwide, ~~he also~~she bears
52	Deletion	bears ~~the common-law~~ responsibility
53-54	Change	responsibility ~~of~~for representing the public's interest
55-56	Change	public's interest in charitable assets~~-a~~. That responsibility
57	Deletion	responsibility ~~that~~ exists because charitable beneficiaries
58-59	Change	Collaborative's Spring 2026 update reports ~~approximately~~around 3.59 million donor-advised-

60	Insertion	billion in grants in fiscal year 2024. See H. Daniel Heist et...faK at 3. Because DAF sponsors, donors,
61-62	Change	questions presented here reach ~~Oklahoma~~Iowa's donors and charitable institutions
63	Deletion	~~Those questions satisfy...a matter of public~~
64	Deletion	~~J recycled paper~~
65-66	Change	~~importance," or presents...progress of the case."~~The significance of those...is warranted. See 28 U.S.C. § 158(d)(2)(A)(i), (iii);
67-68	Change	U.S.C. § 158(d)(2)(A)(i), (iii); see ~~id~~28 U.S.C. § 158(d)(2)(B)
69	Deletion	. § 158(d)(2)(B) ~~(court "shall make the...circumstance exists)~~. Each independent
70	Insertion	. Each independent statutory ground
71	Insertion	ground to justify certifying such an appeal is present.
72-73	Change	there is no controlling decision. ~~In~~The Supreme Court...a similar question in Harrington v. Purdue Pharma L.P.,
74-75	Change	Purdue Pharma L.P., 603 U.S. 204, ~~226-27~~226–27 (2024)
76	Deletion	(2024)~~, the Supreme Court...as a consensual release~~. The Rule 60 proceedings
77	Insertion	. The Rule 60 proceedings here present a closely related and equally
78-79	Change	conduct also implicates a State~~'~~'s charitable-
80-81	Change	Civil Investigative Demands to ~~persons~~people and entities involved in this proceeding,

82-83	Change	whether further action was necessary. ~~Bankr. Dkt. 4308…that investigation. The~~That submission's significance is institutional
84-85	Change	submission's significance is institutional~~:~~ too, a sovereign regulator alerted a
86-87	Change	may materially advance this long-~~winning~~ running proceeding. The certified questions
88-89	Change	Their resolution does not depend on ~~further~~more factfinding, and controlling guidance
90-91	Change	guidance from the Fifth Circuit ~~in a single step would~~will supply a definitive framework for
92-93	Change	proceedings, in whichever direction ~~lhat~~that guidance runs.
94-95	Change	Certification ~~would~~will not resolve any factual dispute,
96-97	Change	remedy, and the court of appeals ~~would~~will still retain full discretion whether
98-99	Change	appeal. 28 U.S.C. § 158(d)(2)(A). ~~It would~~But certifying the appeal will ensure
100	Deletion	ensure ~~only~~ that recurring legal questions affecting
101	Deletion	State receive a controlling answer.~~Oklahoma~~
102	Insertion	Iowa therefore respectfully supports
103	Deletion	~~GENTN R RUMMOND~~
104	Insertion	Respectfully, BRENNA BIRD
105	Insertion	Attorney General of Iowa
106	Insertion	/s/ Eric H. Wessan
107	Insertion	Eric H. Wessan Solicitor

		General
108	Insertion	1305 E. Walnut Street Des...50319 (515) 823-9117
109	Insertion	(515) 281-4209 (fax)
110	Insertion	eric.wessan@ag.iowa.gov
111	Insertion	Counsel for State of Iowa

Statistics:	
	Count
Insertions	59
Deletions	52
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	111

EXHIBIT C

Zachery Annable

From: Flynn, rant < rant.Flynn@state.sd.us>
Sent: Thursday, September 17, 2026 11: 5 AM
To: Scott Will
c: mburrage@whittenburragelaw.com; Melissa Hayward; mstancil@Willkie.com; gharper@kslaw.com
Subject: E: Highland Capital Appeal Letter

cott,

It was our office's understanding that this letter would be attached to an exhibit that would be filed with the Court. As such, we would refer to entrust the tas of resenting the letter to the Court to the attorneys who are noticed in the case as art of a court filing, rather than mailing it directly to the udge.

Than s

Grant M. lynn
Assistant Attorney General
ffice of the Attorney General
tate of outh Da ota
1302 .D. Hwy. 188 , uite 1
Pierre, D 5 501
(605) 3-3215

From: Scott Will <scott@attorneygeneralstrategies.com>
Sent: Wednesday, September 16, 2026 6:34 PM
To: Flynn, Grant <Grant.Flynn@state.sd.us>
Cc: Amber Hulse <amber.hulse@sdlegislature.gov>
Subject: Re: [EXT] Highland Capital Appeal Letter

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n Wed, e 16, 2026 at 3: 8 PM lynn, Grant Grant. lynn state.sd.us wrote:

> enator Hulse and Mr. Will,

Attached lease find a letter signed by AG ac ley su orting certification of direct a eal in the Highland Ban ru tcy Case. I trust that one or both of you will be able to assist us with getting this letter into the right hands.

Please let me now if you have any questions or if there's anything else that you need from me.

Than s so much

Grant M. lynn

Assistant Attorney General

ffice of the Attorney General

tate of outh Da ota

1302 .D. Hwy. 188 , uite 1

Pierre, D 5 501

(605) 3-3215

--

Scott Will

r r r

1

1 1 r

r r r

EXHIBIT D

Zachery Annable

From: Corrigan, Christian <Christian.Corrigan@mt.gov>
Sent: Thursday, September 17, 2026 :51 M
To: mburrage@whittenburragelaw.com; Melissa Hayward; mstancil@willkie.com; gharper@kslaw.com
Subject: Letter from A nudsen to udge Starr re: In re Highland Capital Management, L. .
Attachments: MTA Ltr re Highland Capital 9.17.26 Final.pdf

Hi all:1
1
Please see the attached letter from AG Knudsen to Judge Starr *re: In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 - Certification of Direct Appeal Under 28 U.S.C. § 158(d)(2).1
1
r rr 1
Solicitor General1
Office of Montana Attorney General Austin Knudsen1
Christian.Corrigan@mt.gov1
406.444.27071



1
11
D R D D R 1
This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential, privileged, or deliberative and pre-decisional material, including attorney-client communications and attorney work product. Any unauthorized review, use, disclosure, or distribution is prohibited. This electronic transmission does not constitute a waiver of privilege. If you are not the intended recipient, and have received this message in error, please contact the sender immediately by email reply and destroy all copies of the original message, including any attachments.1
1
11

AUSTIN KNUDSEN

STATE OF MONTANA

September 17, 2026

The Honorable Brantley Starr
United States District Judge
Northern District of Texas
Earle Cabell Federal Building and U.S. Courthouse
1100 Commerce St., Room 1528,
Dallas, TX 75242

Re: *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 - Certification of Direct Appeal Under 28 U.S.C. § 158(d)(2)

Dear Judge Starr:

The State of Montana ("Montana") respectfully submits this letter in support of certification of a direct appeal to the United States Court of Appeals for the Fifth Circuit from the Court's June 15, 2026, order denying relief under Rule 60. Dkt. No. 4678. Montana understands that this letter will be submitted as an exhibit to the Motion for Certification of Direct Appeal filed by The Dugaboy Investment Trust, and Montana seeks no relief independent of that motion. Montana takes no position on the merits of the Rule 60 motion, on any disputed fact, or on the conduct of any party or fiduciary. Its interest is narrower and institutional: the order presents questions of law that satisfy the certification standards of 28 U.S.C. § 158(d)(2), and their resolution by the court of appeals matters to every State charged with protecting charitable assets.

Montana's interest arises from the Attorney General's traditional public role. The Montana Attorney General is the legal officer of the State, authorized to represent the interests of the State in any matter involving the rights or interests of the State. Mont. Const., art. II, §4(4); Mont. Code Ann. § 2-15-501, *et seq*. Like his counterparts nationwide, whether through common law or statutory grant of responsibility, he also bears the responsibility of representing the public's interest in charitable assets - a responsibility that exists because charitable beneficiaries are often indefinite and cannot enforce fiduciary duties themselves. Donor-advised funds now carry a substantial share of that public trust. The DAF Research Collaborative's Spring 2026 update reports approximately 3.59 million donor-advised-fund accounts holding $327.87 billion in assets, with $64.60 billion in grants in fiscal year 2024. Because DAF sponsors, donors, and grantee charities routinely operate across state

DEPARTMENT OF JUSTICE

215 North Sanders
PO Box 201401
Helena, MT 59620-1401

(406) 444-2026
Contactdoj@mt.gov
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lines, the questions presented here reach Montana's donors and charitable institutions no less than those of any other State.

Those questions satisfy the statute. Certification is warranted - and, upon the requisite determination, required where an order "involves a question of law as to which there is no controlling decision" of the court of appeals or the Supreme Court, "involves a matter of public importance," or presents an appeal whose direct review "may materially advance the progress of the case." 28 U.S.C. §158(d)(2)(A)(i), (iii); see id § 158(d)(2)(B) (court "shall make the certification" upon determining that a specified circumstance exists). Each independent ground is present.

First, there is no controlling decision. In *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, 226 – 27(2024), the Supreme Court expressly reserved the question of what qualifies as a consensual release. The Rule 60 proceedings present a closely related and equally unresolved question: how a court should evaluate settlement authority and consent when later-developed evidence bears on claim ownership, signatory authority, and the alignment of the parties said to have consented. Neither the Fifth Circuit nor the Supreme Court has addressed how the materiality standard under Rule 60 applies where the challenged conduct also implicates a State's charitable-enforcement jurisdiction.

Second, the matter is one of public importance. The motion describes a layered, multistate charitable structure involving four established community foundations and entities alleged to have held more than $270 million. On July 9, 2025, the Texas Attorney General advised this Court that his office represents the public's interest in charity, that it had issued Civil Investigative Demands to persons and entities involved in this proceeding, and that it sought a short pause to assess whether further action was necessary. Montana expresses no view on the subjects, merits, or outcome of that investigation. The submission's significance is institutional: a sovereign regulator alerted a federal court that public-law interests were under examination while the case moved toward settlement and release. Whether, and how, such a sovereign submission bears on federal settlement review is a recurring question at the boundary of federal bankruptcy administration and state charity supervision, and it warrants an answer from the court of appeals.

Third, direct review may materially advance this long-running proceeding. The certified questions are purely legal. Their resolution does not depend on further factfinding, and controlling guidance from the Fifth Circuit in a single step would supply a definitive framework for this order and for any related proceedings, in whichever direction that guidance runs. Certification would not resolve any factual dispute, disturb any finding of this Court, or confer any remedy, and the court of appeals would retain full discretion whether to authorize the appeal. 28 U.S.C. § l 58(d)(2)(A). It would ensure only that recurring legal questions affecting charitable assets in every State receive a controlling answer. Montana therefore respectfully supports certification under 28 U.S.C. § 158(d)(2).

Respectfully,



Austin Knudsen
Attorney General of Montana

EXHIBIT E



AUSTIN KNUDSEN



STATE OF MONTANA

~~ENTHER DRUMMOND~~
~~ATTORNEY EN ERAS~~

~~August 21~~September 17, 2026

The Honorable Brantley Starr
United States District Judge
Northern District of Texas
Earle Cabell Federal Building and U.S. Courthouse
1100 Commerce St., Room 1528,
Dallas, TX 75242

Re: *In re Highland Capital* ~~Manageiiicnl~~*Management, L.P.*, Case No. ~~19-34115~~19-34054-sgj11 - Certification of Direct Appeal Under 28 U.S.C. § 158(d)(2)

Dear Judge Starr:

The State of ~~Oklahoma~~Montana ("Montana") respectfully submits this letter in support of certification of a direct appeal to the United States Court of Appeals for the Fifth Circuit from the Court's June 15, 2026, order denying relief under Rule 60. Dkt. No. 4678. ~~Oklahoma~~Montana understands that this letter will be submitted as an exhibit to the Motion for Certification of Direct Appeal filed by The Dugaboy Investment Trust, and ~~Oklahoma~~Montana seeks no relief independent of that motion. ~~Oklahoma~~Montana takes no position on the merits of the Rule 60 motion, on any disputed fact, or on the conduct of any party or fiduciary. Its interest is narrower and institutional: the order presents questions of law that satisfy the certification standards of 28 U.S.C. § 158(d)(2), and their resolution by the court of appeals matters to every State charged with protecting charitable assets.

~~Oklahoma's~~Montana's interest arises from the Attorney General's traditional public role. The ~~Oklahoma~~Montana Attorney General is ~~a constitutional~~the legal officer ~~and~~of the ~~State's chief law officer~~State, authorized to ~~appear when~~represent the interests of the State ~~or its people are at issue. Okla~~in any matter involving the rights or interests of the State. Mont. Const., art. ~~VI, § 1; Okla. Stat. tit. 74, §§ 18, 18b(A)(3)~~II, §4(4); Mont. Code Ann. § 2-15-501, *et seq*. Like his

~~counterpans~~counterparts nationwide, whether through common law or statutory grant of responsibility, he also bears the ~~common-law~~ responsibility of representing the public's interest in charitable ~~assets-a~~assets - a responsibility that exists because charitable beneficiaries are often indefinite and cannot enforce fiduciary duties themselves. Donor-advised funds now carry a substantial share of that public trust. The DAF Research Collaborative's Spring 2026 update reports approximately 3.59 million ~~donor-advised- fund~~donor-advised-fund accounts holding $327.87 billion in assets, with $64.60 billion in grants in fiscal year 2024. Because DAF sponsors, donors, and grantee charities routinely operate across state

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lines, the questions presented here reach ~~Oklahoma's~~Montana's donors and charitable institutions no less than those of any other State.

Those questions satisfy the statute. Certification is ~~warranted and~~warranted - and, upon the requisite determination, ~~required where~~required where an order ~~"~~"involves a question of law as to which there is no controlling decision~~"~~" of the court of appeals or the Supreme Court, ~~"~~"involves a matter of public

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importance,"" or presents an appeal whose direct review ""may materially advance the progress of the case." 28 U.S.C. §158(d)(2)(A)(i), (iii); see id.— § 158(d)(2)(B) (court ""shall make the certification" upon determining that a specified circumstance exists). Each independent ground is present.

First, there is no controlling decision. In *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, ~~226-27~~ 226 – 27(2024), the Supreme Court expressly reserved the question of what qualifies as a consensual release. The Rule 60 proceedings present a closely related and equally unresolved question: how a court should evaluate settlement authority and consent when later-developed evidence bears on claim ownership, signatory authority, and the alignment of the parties said to have consented. Neither the Fifth Circuit nor the Supreme Court has addressed how the materiality standard under Rule 60 applies where the challenged conduct also implicates a State's ~~charitable-enforcement~~charitable-enforcement jurisdiction.

Second, the matter is one of public importance. The motion describes a layered, multistate charitable structure involving four established community foundations and entities alleged to have held more than $270 million. On July 9, 2025, the Texas Attorney General advised this Court that his office represents the public's interest in charity, that it had issued Civil Investigative Demands to persons and entities involved in this proceeding, and that it sought a short pause to assess whether further action was necessary. ~~Bankr. Dkt. 4308. Oklahoma~~Montana expresses no view on the subjects, merits, or outcome of that investigation. The submission's significance is institutional: a sovereign regulator alerted a federal court that public-law interests were under examination while the case moved toward settlement and release. Whether, and how, such a sovereign submission bears on federal settlement review is a recurring question at the boundary of federal bankruptcy administration and state charity supervision, and it warrants an answer from the court of appeals.

Third, direct review may materially advance this ~~long-winning~~long-running proceeding. The certified questions are purely legal. Their resolution does not depend on further factfinding, and controlling guidance from the Fifth Circuit in a single step would supply a definitive framework for this order and for any related proceedings, in whichever direction ~~lhat~~that guidance runs.

Certification would not resolve any factual dispute, disturb any finding of this Court, or confer any remedy, and the court of appeals would retain full discretion whether to authorize the appeal. 28 U.S.C. § ~~158~~l 58(d)(2)(A). It would ensure only that recurring legal questions affecting charitable assets in every State receive a controlling answer. ~~Oklahoma~~Montana therefore respectfully supports certification under 28 U.S.C. § 158(d)(2).

Respectfully,

~~CLINTON R. RUMMOND~~

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Austin Knudsen
Attorney General of Montana

Summary report: **Litera Compare for Word 11.16.0.74 Document comparison done on 9/17/2026 6:40:45 PM**	
Style name: Standard	
Intelligent Table Comparison: Active	
Original filename: OK - Letter dated 8-21-26 from G. Drummond Atty General re Highland Capital Management, L.P..pdf	
Modified filename: MTAG Ltr re Highland Capital 9.17.26 Final.pdf	
Changes:	
Add	51
~~**Delete**~~	46
~~Move From~~	0
Move To	0
Table Insert	0
~~**Table Delete**~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	7
Embedded Excel	0
Format changes	5
Total Changes:	109