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

Re: Response to September 16 and September 18, 2026, letters from Counsel for Highland Capital Management, L.P., Docket Nos. 35 and 36 in *The Dugaboy Investment Trust v. Highland Capital Management, L.P.*, Case No. 3:26-CV-2315-X

Dear Judge Starr,

Opposing counsel doth protest too much.[1]

First, I am unaware of anyone on the Dugaboy side of the "v." engaging Attorney General Strategies. But even if we had engaged them, opposing counsel's acrimony is overwrought as soliciting Attorneys General to participate as amici is not an uncommon litigant strategy. *See, e.g.*, Attachment A. In fact, this practice is so common that opposing counsel's use of the word "troubling" to describe it was inapt. Dkt. 36 at 2. A more accurate word would be "normal." *See, e.g.*, Louisiana AG's [List of Copious Amounts of] Amicus Briefs (https://ag.louisiana.gov/Amicus). Illustrative of how normal it is, on the Attorney General of New York's website she provides a detailed "how to get New York as an amici" wherein she discusses how normal "[r]equests for amicus briefs are received...from any number of sources, including...the National Association of Attorneys General...and interest groups" (https://tinyurl.com/bdzea9vd).

Second, the vast majority of Attorneys General are State-wide elected officials, and every Attorney General exercises independent judgment in legal matters on behalf of what they view as the public interest of their State. At worst, suggesting undue influence by Judge Burrage[2] and others or, at best, suggesting unthinking acquiescence to an effort to corral amici, is preposterous. Most, if not all, Attorneys General possess oversight power over charitable trusts within their States. The situation in this case is one where an individual appears to have leveraged an incredibly complex bankruptcy settlement to unlawfully take potentially hundreds of millions of dollars, and the bankruptcy judge did nothing to stop it. Given those facts

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[1] And perhaps should re-read *Dondi Properties Corp. v. Commerce Savings & Loan Assoc.*, 121 F.R.D. 284 (N.D. Tex. 1988).

[2] To be crystal clear, retired Judge Michael Burrage did not assist in obtaining any letter from the Oklahoma Attorney General in this case and opposing counsel's insinuations are inappropriate. *See Id.*

and Attorneys General's common law responsibilities over charitable trusts, it should surprise no one that certain Attorneys Generals joined an effort to ensure bankruptcy judges apply a uniform standard that protects bankruptcy proceedings from a potential hijacking by a fraudster.

Third, if there is any group of individuals a court should listen to when considering whether a particular question is of significant public importance to justify certification under 28 U.S.C. § 158(d)(2)(A), it is that group most responsive to the electorate, *i.e.*, Attorneys General elected by the public. The public elects officers they believe care most about what is important to that voting public. In this case, those officers want to ensure charities function as charities and not sources of self-enrichment, and that federal bankruptcy settlements aren't used as a workaround of law and regulations. *See* Attachments B-H (Letters from the Iowa, Indiana, Montana, Oklahoma, South Dakota, West Virginia, and Louisiana AGs, respectively).

Opposing counsel can try to construe the commonplace as conspiracy, but the bottom line is that the Court should duly consider the concerns expressed by those entrusted by ancient common law and contemporary citizen voters to oversee charitable trusts. This is especially so when it involves a question about what is or is not a transcendent matter of public importance.

Respectfully submitted,

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Attachment A

KEN PAXTON
Attorney General of Texas
JEFFERY C. MATEER
First Assistant Attorney General
BRANTLEY D. STARR
Deputy First Assistant Attorney General
SCOTT A. KELLER
Solicitor General
JAMES E. DAVIS
Deputy Attorney General for Civil Litigation
DAVID J. HACKER (CA Bar No. 249272; TX Bar No. 24103323)
Special Counsel for Civil Litigation
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Attorneys for Amici Curiae

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA,

Plaintiff,

v.

DON WRIGHT, Acting Secretary of Health and Human Services, et al.,

Defendants,

and

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS,

Intervenor-Defendant.

Case No. 3:16-cv-3539-LB

Hon. Laurel Beeler

BRIEF OF THE STATES OF TEXAS, LOUISIANA, MISSOURI, NEBRASKA, OHIO, OKLAHOMA AND SOUTH CAROLINA AS *AMICI CURIAE* IN SUPPORT OF DEFENDANTS

Hearing date: **Oct. 11, 2017**

Hearing time: **9:30 a.m.**

Attachment B

BRENNA BIRD
ATTORNEY GENERAL

1305 E. WALNUT ST.
DES MOINES, IA 50319
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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 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
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Counsel for State of Iowa

Attachment C

OFFICE OF THE ATTORNEY GENERAL
STATE OF INDIANA

302 W. WASHINGTON ST. 5TH FLOOR
INDIANAPOLIS, IN 46204-2770

TODD ROKITA
ATTORNEY GENERAL

August 24, 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 Indiana 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. Indiana 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 Indiana seeks no relief independent of that motion. Indiana 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.

Indiana's interest arises from the Attorney General's traditional public role. The Indiana Attorney General is the State's chief legal officer, authorized to represent the interests of the State in any matter involving the rights or interests of the State. Ind. Code 4-6-1-6. 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 lines, the questions presented here reach Indiana'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. Bankr. Dkt. 4308. Indiana 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. § 1 58(d)(2)(A). It would ensure only that recurring legal questions affecting charitable assets in every State receive a controlling answer. Indiana therefore respectfully supports certification under 28 U.S.C. § 158(d)(2).

Respectfully,



Todd Rokita
Attorney General of Indiana

Attachment D

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

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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

Attachment E

GENTNER DRUMMOND
ATTORNEY GENERAL

August 21, 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 Oklahoma 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 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 seeks no relief independent of that motion. Oklahoma 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 interest arises from the Attorney General's traditional public role. The Oklahoma Attorney General is a constitutional officer and the State's chief law officer, authorized to appear when the interests of the State or its people are at issue. Okla. Const. art. VI, § 1; Okla. Stat. tit. 74, §§ 18, 18b(A)(3). Like his counterparts nationwide, he also bears the common-law 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 lines, the questions presented here reach Oklahoma'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

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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 (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. Bankr. Dkt. 4308. Oklahoma 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. § 158(d)(2)(A). It would ensure only that recurring legal questions affecting charitable assets in every State receive a controlling answer. Oklahoma therefore respectfully supports certification under 28 U.S.C. § 158(d)(2).

Respectfully,



GENTNER DRUMMOND
Attorney General

Attachment F

Marty J. Jackley
ATTORNEY GENERAL
STATE OF SOUTH DAKOTA

September 16, 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 South Dakota 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. South Dakota 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 South Dakota seeks no relief independent of that motion. South Dakota 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.

South Dakota's interest arises from the Attorney General's traditional public role. By statute, it is the duty of the Attorney General to appear for the state and prosecute or defend any cause or matter in which the state is a party or interested. SDCL § 1-11-1. As to charitable trusts specifically, South Dakota law imposes that duty directly: "The attorney general shall represent the beneficiaries in all cases arising under this chapter, and it shall be his duty to

enforce such trusts by proper proceedings in the courts." SDCL § 55-9-5. The Supreme Court of South Dakota has confirmed the reach of this authority, holding that the assets of a nonprofit corporation — and the proceeds from the sale of those assets — may be subject to an implied or constructive charitable trust even without an express trust agreement, and that a successor entity takes such assets subject to that trust. *Banner Health Sys. v. Long*, 663 N.W.2d 242 (S.D. 2003). Like his counterparts nationwide, he bears responsibility for 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 lines, the questions presented here reach South Dakota'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. Bankr. Dkt. 4308. South Dakota 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. § 158(d)(2)(A). It would ensure only that recurring legal questions affecting charitable assets in every State receive a controlling answer. South Dakota therefore respectfully supports certification under 28 U.S.C. § 158(d)(2).

Respectfully,

Marty J. Jackley
Attorney General of South Dakota

Attachment G

State of West Virginia
John B. McCuskey
Attorney General

Office of the Attorney General
State Capitol, Bldg.1, Rm E-26
1900 Kanawha Blvd. E
Charleston, WV 25305

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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 West Virginia 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. West Virginia understands that this letter will be submitted as an exhibit to the Motion for Certification of Direct Appeal filed by the Dugaboy Investment Trust. West Virginia does not currently take a 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, in the absence of binding Supreme Court precedent, resolution of the legal questions presented matter to every State charged with protecting charitable assets.

West Virginia's interest arises from the Attorney General's traditional public role. The Attorney General is the chief legal officer of West Virginia and appears as counsel for West Virginia in all cases in which the state is interested. W.Va. Code §5-3-2. Like his counterparts nationwide, the Attorney General also represents the public's interest in charitable assets. 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 lines, the question presented reach West Virginia donors and charitable institutions no less than those of any other State.

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 Supreme Court, "involves a matter of public importance," or the immediate appeal "may materially advance the progress of the case or proceeding." 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 of these grounds 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. This matter presents 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 Stat's charitable-enforcement jurisdiction.

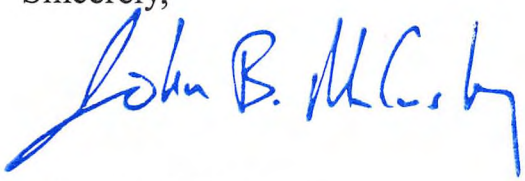
Second, the matter is one of public importance. The motion describes a layered, multistate charitable structure involving four established community foundations and entities alleged to have held more than $270 million. On July 9, 2025, the Texas Attorney General advised this Court that his office represents 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. Bankr. Dkt. 4308. West Virginia expresses no opinion on the subjects, merits, or outcome of that investigation. Rather, the submission's significance is institutional: a sovereign regulated alerted a federal court that public-law interest was under examination while the case moved toward settlement and release. Whether, and how, such a submission from the state official representing the public's interest bears on federal settlement review is a recurring question at the boundary of federal bankruptcy administration and state charity supervision, and is, therefore, of "public importance."

Third, direct review may materially advance the progress of this proceeding. The certified questions are purely legal. Their resolution does not depend on further fact finding, and controlling guidance from the Fifth Circuit in a single step would expediate the resolution of this longstanding proceeding.

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 to authorize the appeal. 28 U.S.C. §158(d)(2). It will allow the court of appeals to answer a recurring legal question affecting the interplay between federal bankruptcy administration and state supervision of charitable assets. West Virginia therefore supports certification under 28 U.S.C. §158(d)(2).

Sincerely,



John B. McCuskey
West Virginia Attorney General

Attachment H

LIZ MURRILL
ATTORNEY GENERAL

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DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE, LA
70804-9005

October 5, 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 Louisiana 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. Louisiana 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 Louisiana seeks no relief independent of that motion. Louisiana 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.

Louisiana's interest arises from the Attorney General's traditional public role. Under the Louisiana Constitution, the Attorney General is "the chief legal officer of the state" and, "[a]s necessary for the assertion or protection of any right or interest of the state," has authority "to institute, prosecute, or intervene in any civil action or proceeding." La. Const. art. IV, § 8. Consistent with that authority, the Attorney General's office may petition a court to enforce a charitable trust — including to compel a trustee to perform his duties, to enjoin a breach of trust, to compel redress of a breach of trust, or to remove a trustee. Like her or his counterparts nationwide, s/he bears responsibility for 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 lines, the questions presented here reach Louisiana'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. Bankr. Dkt. 4308. Louisiana 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. § 158(d)(2)(A). It would ensure only that recurring legal questions affecting charitable assets in every State receive a controlling answer. Louisiana therefore respectfully supports certification under 28 U.S.C. § 158(d)(2).

Respectfully,



Liz Murrill
Attorney General