BTXN 099 (rev. 12/14)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s) Patrick Daugherty Appellant(s) vs. Highland Capital Management, L.P. , et al Appellee(s)	§	Case No.: 19−34054−sgj11 Chapter No.: 11 Adversary No.: 25−03055−bwo Civil Action No.: 3:26−CV−02664−S

TRANSMITTAL AND CERTIFICATION OF RECORD ON APPEAL

Pursuant to Federal Rules of Bankruptcy Procedure 8010, the appeal filed on 8/7/2026 regarding [138] Judgment. Entered 7/24/2026 by Patrick Daugherty in the above styled bankruptcy case is hereby transmitted to the U.S. District Court for the Northern District of Texas.

This record on appeal contains all items listed on the attached index, and is in compliance with Rule 8010 of the Federal Rules of Bankruptcy Procedure.

All further pleadings or inquiries regarding this matter should be directed to the U.S. District Clerk's Office until such time as the appeal is fully processed in the U.S. District Court.

The above referenced record was delivered to the U.S. District Clerk's Office on October 27, 2026.

DATED: 10/27/26

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/J. Blanco, Deputy Clerk



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

In Re: Highland Capital Management, L.P

§

§ Case No 19−34054−SGJ-11

Patrick Daugherty - Appellant §

25-03055

vs §

3:26-CV-02664-S

Highland Capital Management, L.P., et al - Appellee

§

§

[138] Judgment. Entered on 8/7/2026

MINI RECORD

VOLUME 1

BTXN 101 (rev. 10/02)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s) Patrick Daugherty Appellant(s) vs. Highland Capital Management, L.P., et al Appellee(s)	§	Case No.: 19−34054−sgj11 Chapter No.: 11 Adversary No.: 25−03055−bwo Civil Action No.: 3:26−CV−02664−S

INDEX OF RECORD FOR THE PURPOSE OF APPEAL

Page No.	**Item Description**
	Appellant Index
000001	Notice of Appeal 142
000008	Appealed Order 138
000010	Memorandum Opinion 139
000035	Adv docket sheet

DATED: 10/27/26

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/J. Blanco, Deputy Clerk

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055-bwo
Defendant.	§	
	§	INDEX

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the July 24, 2026 *Judgment and Memorandum Opinion* [Docket Nos. 138, 139 in Adversary No. 25-03055-bwo]. *See Notice of Appeal* [Docket No. 142 in Adversary No. 25-03055-bwo].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court erred in disallowing Daugherty's Reserved Claim based on the Employment Agreement's termination provisions, when the Court itself found the 2009 Compensation Statement was incorporated into the Employment Agreement and resolved its ambiguity in Daugherty's favor, concluding that Highland Capital Management, L.P. ("Highland") intended to compensate Daugherty for any material deviation in his 2008 tax refund.

2. Whether the Bankruptcy Court erred in applying the "no further liability or obligation" language of Sections 4.5 and 4.6 of the Employment Agreement to extinguish Daugherty's compensation entitlement under the 2009 Compensation Statement, when that language pertains to severance contingent upon execution of a separation agreement and not to earned compensation that accrued during Daugherty's active employment.

3. Whether the Bankruptcy Court erred in holding that James Dondero's oral promises to cover Daugherty's contingent tax liability were unenforceable under Texas's statute of frauds, Tex. Bus. & Com. Code § 26.01, when Highland had a main purpose of its own in making the promise and when the Court failed to consider Daugherty's continued employment and forbearance as adequate consideration.

4. Whether the Bankruptcy Court erred in denying Daugherty's counterclaim for specific performance of the Settlement Agreement's books-and-records provision by construing that provision through the statutory categories of 6 Del. C. § 18-305(a), rather than by the plain meaning of the negotiated Settlement Agreement requiring Highland to "transfer its *interests* in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims," including "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system."

5. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of

the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

6. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, inter alia, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

Vol. 1
000001
000008

1. Notice of Appeal for Adversary No. 25-03055-bwo [Docket No. 142].

2. The Judgment Order or Decree appealed from: July 24, 2026 – Judgment [Docket No. 138].

000010

3. July 24, 2026 – Memorandum of Opinion [Docket No. 139].

000035

4. Docket Sheet for Adversary Case No. 25-03055-bwo kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 25-03055-bwo:

Vol. 2

Filing Date	Docket No.	Description
05/02/2025	1	(16 pgs; 3 docs) Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/05/2025	2	(4 pgs; 2 docs) Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3	(2 pgs) Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre-trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us-

000053
000064
000073

Vol. 2

		courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025	4	(4 pgs) Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025	5	(13 pgs; 2 docs) Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025	6	(5 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025	7	(10 pgs) Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025	8	(12 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025	9	(13 pgs; 2 docs) Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025	10	(13 pgs; 2 docs) Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025	11	(43 pgs; 5 docs) Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

000076
000079
000092
000097
000107
000119
000132
000145

Vol. 2

07/28/2025 000188	12	(4 pgs) Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025 000192	13	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025 000195	14	(6 pgs; 2 docs) Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025 000201	15	(13 pgs) Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025 000214	16	(5 pgs) Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)

Vol. 2

08/18/2025 000219	17	(3 pgs) Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025 000222	18	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025 000225	19	(225 pgs; 12 docs) Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)

Vol. 3

09/04/2025 000450	20	(48 pgs; 2 docs) Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/05/2025 000498	23	(3 pgs) Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025 000501	24	(5 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)

09/19/2025	25	(9 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
09/23/2025	27	(13 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
09/23/2025	28	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
09/23/2025	30	(6 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02584-E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
09/25/2025	31	(7 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
09/25/2025	32	(4 pgs) BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
09/26/2025	33	(44 pgs; 2 docs) Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
09/29/2025	34	(1 pg) Request for Transcript regarding a hearing held on 9/4/2025. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

vol. 3

09/30/2025	35	(36 pgs) Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025	36	(6 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025	37	(14 pgs) Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025	38	(11 pgs) Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025	39	(45 pgs; 2 docs) Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)

000592
000628
000634
000648
000659

Vol. 3

000704 10/03/2025	40	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
000707 10/03/2025	41	(6 pgs) Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
000713 10/04/2025	42	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
000729 10/04/2025	43	(13 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)

Vol 4

000742 10/06/2025	44	(29 pgs) Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
000771 10/09/2025	45	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
000774 10/09/2025	46	(3 pgs) Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Morris, John)
000777 10/09/2025	47	(3 pgs) Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
000780 10/09/2025	48	(3 pgs) Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Demo, Gregory)
000783 10/13/2025	49	(9 pgs) Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related

		documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50	(1 pg) Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	51	(6 pgs) Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53	(1 pg) Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25-cv-02584-E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54	(1 pg) Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25-cv-02584-E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55	(3 pgs) Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56	(8 pgs) Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57	(7 pgs) DISTRICT COURT Stipulation concerning supplement to record on appeal re: 3:25-cv-02584-E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of

Case 3:25-cv-02664-S Document 12-1 Filed 10/27/26 Page 13 of 78 PageID 116

Vol 4

		issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58	ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25-03055, effective immediately. The Bankruptcy Clerk of Court will re-assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025		Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59	(11 pgs) Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60	(14 pgs; 2 docs) Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61	(156 pgs; 7 docs) Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62	(3 pgs) Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).

000819

000830

000844

Vol. 5

001000

Vol 5

12/29/2025 001003	63	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
12/30/2025 001006	64	(19 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/30/2025 001025	65	(3 pgs) Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/30/2025 001028	66	(14 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/31/2025 001042	67	(14 pgs) Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
01/02/2026 001056	68	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
01/05/2026 001072	69	(12 pgs) Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
01/05/2026 001084	70	(10 pgs; 2 docs) Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
01/08/2026 001094	71	(10 pgs) Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion*

Vol 5			*to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
001104	01/12/2026	72	(4 pgs) Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff

Vol. 5

		Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026	73	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/15/2026	74	(2 pgs) Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)
01/17/2026	76	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
01/23/2026	77	(16 pgs) Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
01/25/2026	78	(18 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
01/26/2026	79	(13 pgs) Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
01/26/2026	80	(13 pgs) Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
01/28/2026	81	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman

001108
001111
001113
001117
001133
001151
001164
001179

Case 3:26-cv-02664-S Document 12-2 Filed 10/27/26 Page 17 of 78 PageID 120

Vol 5

		Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026 001192	82	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/09/2026 001207	84	(4 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026 001211	85	(7 pgs) Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026 001218	86	(9 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026 001227	87	(3 pgs) Notice to take deposition of T.J. Liles-Tims filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
02/27/2026 001230	88	(2 pgs) Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026 001232	89	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)

03/10/2026	91	(3 pgs) Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026	93	(5 pgs) Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026	94	(8 pgs) Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026	95	(3 pgs) Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026	96	(10 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)
04/02/2026	97	(8 pgs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)

Vol. 5

001273 04/02/2026	98	(8 pgs) Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
001281 04/08/2026	99	(9 pgs) Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001290 04/10/2026	100	(28 pgs) Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
001318 04/13/2026	101	(28 pgs) Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
001346 04/13/2026	102	(21 pgs) Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
001367 04/14/2026	103	(8 pgs) Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
001375 04/14/2026	104	(8 pgs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
001383 04/15/2026	105	(1782 pgs; 95 docs) Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-01 # 2 Exhibit PD-02 # 3 Exhibit PD-03 # 4 Exhibit PD-04 # 5 Exhibit PD-05 # 6 Exhibit PD-06 # 7 Exhibit PD-07 # 8 List of 20 Largest Creditors PD-08 # 9 Exhibit PD-09 # 10 Exhibit PD-10 # 11 Exhibit PD-11 # 12 Exhibit PD-12 # 13 Exhibit PD-13 # 14 Exhibit PD-14 # 15 Exhibit PD-16 # 16 Exhibit PD-16 # 17 List of 20 Largest Creditors PD-17 # 18 Exhibit PD-18 # 19 Exhibit PD-19 # 20 Exhibit PD-20 # 21 Exhibit PD-21 # 22 Exhibit PD-22 # 23 Exhibit PD-23 # 24 Exhibit PD-24 # 25 Exhibit PD-25 # 26 Exhibit PD-26 # 27 Exhibit PD-27 # 28 Exhibit PD-28 # 29 Exhibit PD-29 # 30 Exhibit PD-30 # 31 Exhibit PD-31 # 32 Exhibit PD-32 # 33 Exhibit PD-33 # 34 Exhibit PD-34 # 35 Exhibit PD-35 # 36 Exhibit PD-36 # 37 Exhibit PD-37 # 38 List of 20 Largest Creditors PD-38 # 39 List of 20 Largest Creditors PD-39 # 40 Exhibit PD-40 # 41 List of 20 Largest Creditors PD-41 # 42 Exhibit PD-42 # 43 Exhibit PD-43 # 44 Exhibit PD-44 # 45 Exhibit PD-45 # 46 Exhibit PD-46 # 47 Exhibit PD-47 # 48 Exhibit PD-48 # 49 Exhibit PD-49 # 50 Exhibit PD-50 # 51 Exhibit PD-51 # 52 Exhibit PD-52 # 53 Exhibit PD-53 # 54 Exhibit PD-54

Vol 5 001383		# 55 Exhibit PD-55 # 56 Exhibit PD-56 # 57 Exhibit PD-57 # 58 Exhibit PD-58 # 59 Exhibit PD-59 # 60 Exhibit PD-60 # 61 Exhibit PD-61 # 62 Exhibit PD-62 # 63 Exhibit PD-63 # 64 Exhibit PD-64 # 65 Exhibit PD-65 # 66 Exhibit PD-66 # 67 Exhibit PD-67 # 68 Exhibit PD-68 # 69 Exhibit PD-69 # 70 Exhibit PD-70 # 71 Exhibit PD-71 # 72 Exhibit PD-72 # 73 Exhibit PD-73 # 74 Exhibit PD-74 # 75 Exhibit PD-75 # 76 Exhibit PD-76 # 77 Exhibit PD-77 # 78 Exhibit PD-78 # 79 Exhibit PD-79 # 80 Exhibit PD-80 # 81 Exhibit PD-81 # 82 Exhibit PD-82 # 83 Exhibit PD-83 # 84 Exhibit PD-84 # 85 Exhibit PD-85 # 86 Exhibit PD-86 # 87 Exhibit PD-87 # 88 Exhibit PD-88 # 89 Exhibit PD-89 # 90 Exhibit PD-90 # 91 Exhibit PD-91 # 92 Exhibit PD-92 # 93 Exhibit PD-93 # 94 Exhibit PD-94) (York, Andrew)
001385	04/15/2026 106	(11 pgs) Joint Motion to file document under seal. *Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (York, Andrew)
Vol. 6 001396 Thru Vol 7	04/15/2026 107	(696 pgs; 66 docs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
Vol 7 002092	04/15/2026 108	(5 pgs) Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
002097	04/15/2026 109	SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital

Vol. 7

		Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	110	SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	111	SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	112	SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	113	SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	114	SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	115	SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	116	SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)

04/15/2026	117	SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118	SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119	SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120	SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121	SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122	SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123	SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124	(30 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)101 Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff

		Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	126	(64 pgs; 5 docs) Support/supplemental document *Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-95 # 2 Exhibit PD-96 # 3 Exhibit PD-97 # 4 Exhibit PD-98) (York, Andrew)
04/16/2026	127	(3 pgs) Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128	(15 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129	(7 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130	(9 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	132	(1 pg) Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133	(1 pg) Request for Transcript regarding a hearing held on 4/17/2026. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

05/18/2026	135	(327 pgs) Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken under advisement; each side to file proposed Findings of Fact and Conclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
06/05/2026	136	(47 pgs) Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
06/05/2026	137	(19 pgs) Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
07/24/2026	138	(2 pgs) Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
07/24/2026	139	(25 pgs) Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
07/26/2026	140	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
07/26/2026	141	(27 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
08/07/2026	142	(7 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
08/11/2026	144	(9 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation

		due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146	(4 pgs) DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26-cv-02664-S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147	(4 pgs) BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver of, any and all rights, remedies, challenges and objections.

Respectfully submitted this 2nd day of September, 2026,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of September 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
Gray Reed & McGraw LLP
1845 Woodall Rogers Freeway, Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	CASE NO. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	ADV. PROC. NO. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff	§	
	§	

NOTICE OF APPEAL

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): **Patrick Daugherty**

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

   For appeals in an adversary proceeding.
   ☐ Plaintiff
   ☒ Defendant
   ☐ Other (describe):

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed: **Judgment [Docket No. 138], attached hereto as Exhibit A.**

2. State the date on which the judgment, order, or decree was entered: **July 24, 2026.**

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Patrick Daugherty

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507
GRAY REED & McGRAW LLP
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

2. Highland Capital Management, L.P. and Highland Claimant Trust	Jeffrey N. Pomerantz (admitted *pro hac vice)* John A. Morris (admitted *pro hac vice*) Gregory V. Dmo (admitted *pro hac vice*) Hayley R. Winograd (admitted *pro hac vice*) **PACHULSKI STANG ZIEHL & JONES LLP** 10100 Santa Monica Blvd., 13th Floor Los Angeles, California 90067 Telephone: (310) 277-6910 Facsimile: (310) 201-0760 Email: jpomerantz@pszjlaw.com jmorris@pszjlaw.com gdemo@pszjlaw.com hwinograd@pszjlaw.com -and- Melissa S. Hayward Texas Bar No. 24044908 Zachery Z. Annable Texas Bar No. 24053075 **HAYWARD PLLC** 10501 N. Central Expwy., Suite 106 Dallas, Texas 75231 Telephone: (972) 755-7100 Facsimile: (972) 75507110 Email: mhayward@haywardfirm.com zannble@haywardfirm.com

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign Below

Respectfully submitted this seventh day of August, 2026.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rogers Freeway, Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this seventh day of August, 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 24, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

JUDGMENT

Consistent with the Memorandum Opinion issued on this date, it is hereby

ORDERED, ADJUDGED, AND DECREED that Patrick Hagaman Daugherty's ("Daugherty") Reserved Claim[1] is disallowed; it is further

ORDERED, ADJUDGED, AND DECREED that Highland Capital Management, L.P. ("Highland") did not breach its obligations under the Settlement Agreement between Highland and Daugherty dated November 22, 2021, and approved by this Court on March 8, 2022 (the "Settlement Agreement"); it is further

ORDERED, ADJUDGED, AND DECREED that Daugherty's request for specific performance of the Settlement Agreement is denied; and it is further

ORDERED, ADJUDGED, AND DECREED that any relief not expressly granted herein is denied.

This Judgment disposes of all parties and all claims in this adversary proceeding.

End of Judgment

[1] "Reserved Claim" has the same meaning given to it in the Court's Memorandum Opinion.

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 24, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

JUDGMENT

Consistent with the Memorandum Opinion issued on this date, it is hereby

ORDERED, ADJUDGED, AND DECREED that Patrick Hagaman Daugherty's ("Daugherty") Reserved Claim[1] is disallowed; it is further

ORDERED, ADJUDGED, AND DECREED that Highland Capital Management, L.P. ("Highland") did not breach its obligations under the Settlement Agreement between Highland and Daugherty dated November 22, 2021, and approved by this Court on March 8, 2022 (the "Settlement Agreement"); it is further

ORDERED, ADJUDGED, AND DECREED that Daugherty's request for specific performance of the Settlement Agreement is denied; and it is further

ORDERED, ADJUDGED, AND DECREED that any relief not expressly granted herein is denied.

This Judgment disposes of all parties and all claims in this adversary proceeding.

End of Judgment

[1] "Reserved Claim" has the same meaning given to it in the Court's Memorandum Opinion.

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 24, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

MEMORANDUM OPINION

The Court issues this Memorandum Opinion in the action between Plaintiff and Counter-Defendant, Highland Capital Management, L.P. ("Highland"), and Patrick Hagaman Daugherty ("Daugherty"), Defendant and Counter-Plaintiff.

Highland contests the validity of Daugherty's proof of claim filed in its related bankruptcy case and seeks to disallow the claim. In the alternative, Highland asks the Court to estimate Daugherty's contingent claim under 11 U.S.C. § 502(c) for purposes of making a distribution under Highland's confirmed chapter 11 plan.[1] Daugherty's counterclaims allege that Highland breached a prior settlement agreement between the parties, in which Highland agreed to turnover the Highland Employee Retention Assets LLC ("HERA") and ERA Management, LLC ("ERA") books and records. Daugherty seeks specific performance of the settlement agreement.[2] Trial was held on April 17, 2026, after which the parties submitted proposed findings of fact and conclusions of law.

The Court's findings and conclusions are based upon the record before the Court and are issued under Rule 52 of the Federal Rules of Civil Procedure, made applicable in this adversary proceeding by Rule 7052 of the Federal Rules of Bankruptcy Procedure.

The issues here raise mixed questions of fact and law. Accordingly, where appropriate, findings of fact may be considered conclusions of law and conclusions of law may be considered findings of fact.

[1] Prior to trial, Highland withdrew its claim for subordination under 11 U.S.C. § 510(b). Unless otherwise stated, all "§" or "section" references are to Tile 11 of the United States Code (the "Bankruptcy Code").

[2] Prior to trial, Daugherty withdrew his claim for attorney's fees.

FINDINGS OF FACT

Highland's Bankruptcy Case and Daugherty's Reserved Claim

1. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code commencing the above-captioned bankruptcy case. Case No. 19-34054, Dkt. No. 1. In Highland's bankruptcy case, Daugherty filed several proofs of claim that culminated in proof of claim number 205, which is subject to the parties' dispute in this adversary proceeding. Dkt. No. 101, ¶ 2.[3]

2. On November 24, 2020, this Court entered an Order temporarily allowing Daughtery's claim in the amount of $9,134,019.00 for voting purposes only. Case No. 19-34054, Dkt. No. 1474. Then, on February 22, 2021, this Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief*.[4] *Id.*, Dkt. No. 1943. Highland's confirmed plan became effective on August 11, 2021, at which time a claimant trust was established over which James P. Seery, Highland's Chief Executive Officer, was appointed trustee. *Id.*, Dkt. Nos. 1808, 2700.

3. Following confirmation, on November 22, 2021, Highland and Daugherty executed a settlement agreement. Dkt. No. 101, ¶ 19. Among other things, the settlement agreement resolved Daugherty's claims against Highland's bankruptcy estate, save for one, and required Highland to turnover HERA and ERA's

[3] Unless otherwise stated, all "Dkt. No." references herein are to the above-captioned adversary proceeding.

[4] The Confirmation Order was subsequently modified for reasons irrelevant to this dispute. *See* Case No. 19-34054, Dkt. No. 4378.

books and records to Daugherty. Highland Ex. 5; Daugherty Ex. 3. Below are provisions from the settlement agreement relevant to this dispute:

> 8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

Highland Ex. 5, ¶¶ 8, 9; Daugherty Ex. 3, ¶¶ 8, 9. The Court entered an order approving the settlement agreement on March 8, 2022, which allowed Daugherty's proof of claim number 205 in the amounts set forth in the settlement agreement, subject to further resolution of the Reserved Claim.[5] Case No. 19-34054, Dkt. No. 3298.

4. On May 2, 2025, Highland commenced this adversary proceeding by filing its Complaint seeking to disallow the Reserved Claim or, alternatively,

[5] "Reserved Claim" has the meaning given to it by the Parties in the Settlement Agreement. Highland Ex. 5, ¶ 9; Daugherty Ex. 3, ¶ 9.

requesting that the Court estimate the Reserved Claim.[6] Dkt. No. 1. On June 4, 2025, Daugherty filed his *Motion to Dismiss* Highland's complaint. Dkt. No. 5.

5. On July 18, 2025, Highland filed its *(A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* ("Cross Motion"). Dkt. No. 10. The Cross Motion sought to modify the order approving the settlement agreement to strike the so-called "Stay Provision." Such relief would permit Highland to proceed with its claim-disallowance proceeding against Daugherty despite there being no "final determination with respect to the IRS Audit Dispute." The Court granted the Cross Motion on September 5, 2025, and modification of the settlement order remains subject of Daugherty's appeal. Dkt. Nos. 23, 25.

6. Pursuant to the settlement agreement, Daugherty's Reserved Claim is fully reserved in an account held by the Claimant Trust with a balance equal to $2,650,353.00, the amount of the Reserved Claim asserted by Daugherty in his proof of claim. Daugherty Ex. 94, ¶ 1. At trial, Mr. Seery testified that this amount remains in a claimant trust account and is the last unresolved claim of the Highland bankruptcy estate. Trial Tr. at 241:21–242:3. Any distribution made to Daugherty on account of the Reserved Claim must occur prior to distributions to Highland's partnership interests—Classes 10 and 11. Trial Tr. at 240:23–243:11.

[6] *See supra* n.1 regarding Highland's claim for subordination.

Daugherty's Employment at and Separation from Highland

7. Daugherty was employed by Highland from 1998 to his voluntary resignation in 2011. Dkt No. 101, ¶ 8, 14. On December 31, 2004, Highland and Daugherty entered into an Amended Employment Agreement ("Employment Agreement"), which, among other things, described Daugherty's compensation and benefits. Highland Ex. 11. As 'Salary and Bonus" the Employment Agreement states the following:

> (a) Salary and Bonus. The annual salary (the "***Base Salary***") payable to the Executive during the term of this Agreement shall be an amount determined by the Company (in its sole discretion) and communicated in writing to the Executive, and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon the Executive's performance and shall be determined by the Company in its sole discretion. In addition, the Company may from time to time award bonuses to the Executive based on such criteria as the Company may establish in its discretion. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. The Executive must be employed on the payment date(s) in order to be eligible for the bonus. The payment of salary and bonuses shall be subject to all federal, state and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of the Executive's compensation does not constitute a guarantee of employment for any specific period of time.

Id. ¶ 3.1(a). The Employment Agreement also includes a Form of Separation Agreement and Release, which an employee *may* sign at the termination of their employment. If an employee does not sign the separation agreement, then the Employment Agreement states that the employee is not entitled to severance, and Highland "will have no further liability or obligation to the [employee] under [the Employment Agreement] or in connection with [their] employment or termination." *Id.* ¶¶ 4.4–4.6.

8. Consistent with the Employment Agreement, Daugherty was provided with a Comprehensive Compensation and Benefits Statement ("2009 Compensation

Statement") dated February 27, 2009. Highland Ex. 13. Therein, Daugherty's 2008 earnings and awards totaled $3,594,136, of which $1,475,816 was allocated as a 2008 tax refund.[7] *Id.* Stated with the 2008 tax refund line item is the following language:

> Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

Id. This language forms the basis for Daugherty's Reserved Claim against Highland's bankruptcy estate.

9. In an email from Scott Wilson, Highland's Principal, Internal Strategy, dated February 26, 2009, to Brian Collins and Patrick Boyce, Mr. Wilson included an attachment with draft questions and answers related to the 2008 tax refund. Highland Ex. 47. Of note, the following questions included draft answers:

> **Why would you consider the tax refund as part of compensation? Isn't the refund in my name?**
>
> When you paid taxes in 2006 and 2007 that are now potentially subject to a refund, you received a distribution from Highland to pay those taxes. Now we believe that the taxes were overpaid, due to subsequent losses, and as such, Highland distributed an excessive amount to you to pay the taxes. Accordingly, any difference, now or then, ends up being extra compensation to you, and keeping the refund represents an extra compensation to you from Highland **(NOTE: this is by no means well researched legal argument. The Tax Dept. is investigating various legal and tax rationale in this matter, and we can discuss various options on this argument further in a verbal conversation)**
>
> **What would happen if my actual tax refund is different from this estimate, or if the timing is significantly delayed? Would I be "trued-up" if is it less? What if it is more?**

[7] With the inclusion of "Highland Paid Benefits," Daugherty's compensation package totaled $3,619,376. Highland Ex. 13.

> If the actual refund ends up being different than the estimated amount, then we would consider what action to take on a case-by-case basis, considering several factors including the difference in the refund amount and if that creates any "gap" between the target total cash compensation and your actual cash compensation would be.

Id. at 3–5 (emphasis in original). A slide-deck dated March 6, 2009, and titled "Tax Discussion" included "[p]rovide overview of tax refund estimate calculation" as an objective. Highland Ex. 39; *see also* Trial Tr. 296:6–11. One slide answered affirmatively the following question: "Can the IRS claw back the refund?" *Id.* at 7.

10. In 2009, based on a draft Schedule K-1 that Highland provided to him, Daugherty filed his 2008 federal income tax return. Dkt. No. 101, ¶ 11. The Draft K-1 identified Daugherty's "partner's share of loss" as 0.746998% as of December 31, 2008. Daugherty Ex. 26. In 2009, Daugherty received refunds from the IRS of previously paid taxes in the amounts of $493,629 and $780,301 related to his 2008 Individual Income Tax Return (Form 1040) and his 2008 Application for Tentative Refund (Form 1045), respectively, for a total refund of $1,273,930. Highland Exs. 35, 36. These forms incorporated Highland's losses that were allocated to him as provided for in the draft Schedule K-1. Dkt. No. 101, ¶ 12. Later in 2009, Highland issued its final 2008 Schedule K-1 to Daugherty identifying Daugherty's "partner's share of loss" as 0.740262% as of December 31, 2008. Highland Ex. 14; Daugherty Ex. 24.

11. On March 3, 2010, the IRS notified Highland that it was initiating an audit of Highland's 2008 federal income tax return. Dkt. No. 101, ¶ 13.

12. On September 28, 2011, Daugherty gave voluntary notice of resignation from all positions at Highland with his last day as an employee being October 31,

2011. *Id.* ¶ 14. Daugherty did not sign the form separation agreement attached to the Employment Agreement. Prior to his last day of employment, Daugherty and Highland attempted to negotiate different separation and release terms that included, among other things, Highland's agreement to pay a "Notice of Tax Due," or other similar demand, delivered to Daugherty because of the IRS audit of Highland's tax return. Highland Exs. 40, 41. These negotiations did not culminate in a signed agreement. Trial Tr. 207:23–209:5.

13. At trial, Daugherty testified that James Dondero, Highland's former chief executive officer, made promises to Daugherty about the 2009 tax refund. Trial Tr. 296:18–22 ("[Dondero] said, I'll take care of you. I'll make it up to you.")

14. On December 8, 2017, an IRS examiner executed Form 4605-A, which proposed to increase Highland's reported 2008 short-term portfolio income by $166,332,713. Highland Ex. 15, Daugherty Ex. 27. Settlement discussions with the IRS remain ongoing. *See* Highland Ex. 20, Daugherty Ex. 32. To date, Daugherty has not received notice that he is required to repay any amount refunded to him in connection with his 2009 tax refund.

Compliance with the Settlement Agreement

15. The Settlement Agreement required Highland to "transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type . . . . Such transfer will be without any liability or material cost to HCMLP or its affiliates . . . ." Highland Ex. 5 ¶ 8;

Daugherty Ex. 3 ¶ 8. On April 1, 2022, Highland transferred its interests in HERA and ERA to Daugherty pursuant to written agreements. Highland Ex. 52. Both HERA and ERA are Delaware limited liability companies. *Id.*

16. HERA and ERA were non-operating entities that did not have any employees, offices, servers, or email addresses. Trial Tr. at 183:17–185:7. The phrase "books and records (spreadsheet)" is not otherwise expressly defined in the settlement agreement.

17. On May 5, 2022, and October 19, 2022, Highland delivered certain documents and materials to Daugherty as reflected in Daugherty Exhibits 33 and 34. The May 2022 production included over 50MB of data and included all of HERA and ERA's (a) corporate governance records, (b) historical accounting records, and (c) historical tax filings. Trial Tr. at 192:6–21, 193:4–194:2. At Daugherty's request, Highland transmitted additional records in October 2022 that included legal invoices. Trial Tr. 80:16–81:11.

18. On February 29, 2024, HERA filed a lawsuit in the Northern District of Texas against 24 defendants. Case No. 3:24-cv-00498-K, Dkt. No. 1 (N.D. Tex.); *see also* Highland Ex. 54; Trial Tr. 198:22–199:9, 277:3–8.[8] In that case, there are pending motions to dismiss, and the district court stayed the case pending resolution of those motions to dismiss. Case No. 3:24-cv-00498-K, Dkt. No. 119. Daugherty testified that if HERA prevails on the motions to dismiss, it will seek discovery from Highland. Trial Tr. 277:18–22.

[8] The Court takes judicial notice of the docket in Case No. 3:24-cv-00498-K pending in the Northern District of Texas. Fed. R. Evid. 201(b)(2), (c)(1).

19. Daugherty performed and satisfied all obligations that the Settlement Agreement imposed upon him. Highland does not contest Daugherty's full performance of the Settlement Agreement. Daugherty's demand for specific performance relates to the HERA and ERA "books and records (spreadsheet)" provision of the settlement agreement. In particular, Daugherty seeks all materials "*related* to HERA and ERA" that are in Highland's possession. Dkt No. 102, ¶¶ 1, 27, 36 (emphasis added). Prior to filing his counterclaims in this adversary proceeding, Daugherty did not otherwise seek relief from this Court to enforce the settlement agreement.

CONCLUSIONS OF LAW

20. The Court has jurisdiction over this adversary proceeding under 28 U.S.C. § 1334. This action is a core proceeding under 28 U.S.C. § 157(b)(2)(B) and (O). Venue is proper under 28 U.S.C. §§ 1408 and 1409(a).

Burdens of Proof

21. 11 U.S.C. § 502(a) states, "A claim . . . proof of which is filed under section 501 [the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects." A properly filed proof of claim is prima facie evidence of the claimant's entitlement to collect against assets of the debtor's estate. *Cal. State Bd. Of Equalization v. Off. Unsecured Creditors' Comm. (In re Fid. Holding Co.)*, 837 F.2d 696, 698 (5th Cir. 1988).

22. If a claim objection is filed, then the burden shifts to the objector to "produce evidence tending to defeat the claim that is of a probative force equal to that

of the creditor's proof of claim." *Simmons v. Savell (In re Simmons)*, 765 F.2d 547, 552 (5th Cir. 1985). If an objector produces evidence to rebut the prima facie validity of the claim, then the claimant must prove the validity of its claim by a preponderance of the evidence. *See United States v. Canada*, 574 B.R. 620, 627 (N.D. Tex. 2017).

23. Daugherty properly filed proof of claim number 205 and attached a compensation summary dated August 18, 2011, and the 2009 Compensation Statement. Case No. 19-34054, Dkt. No. 1280-2.[9] Thus, Highland must bring forward evidence equal in probative force to defeat Daugherty's claim.

The Employment Agreement Absolves Highland of Any Liability to Daugherty.

24. The parties do not contest that Texas law controls this dispute over Daugherty's Reserved Claim. Likewise, neither party contests the validity of the Employment Agreement. At issue, then, is how to construe the 2009 Compensation Statement.

25. "In construing a written contract, the primary concern of the court is to ascertain the true intentions of the parties as expressed in the instrument." *Coker v. Coker*, 650 S.W.2d 391, 393 (Tex. 1983). "Incorporation by reference" allows courts to also consider separate documents that are plainly referred to in the contract. *See Zamora v. Swift Transp. Corp.*, 547 F. Supp. 2d 699, 702 (W.D. Tex. 2008) ("An employment agreement may incorporate, by reference, the terms of a separate

[9] Neither party in this adversary proceeding sought to introduce as an exhibit Daugherty's proof of claim number 205. Daugherty's unredacted proof of claim is inaccessible via Highland's claims administrator, Verita, is not filed elsewhere on the Court's docket, and was attached only in a redacted format to a prior motion filed in the related bankruptcy case.

document where the agreement directly and expressly refers to the separate document."); *Owen v. Hendricks*, 433 S.W.2d 164, 166 (Tex. 1968) ("It is uniformly held that an unsigned paper may be incorporated by reference in the paper signed by the person sought to be charged. The language used is not important provided the document signed by the defendant plainly refers to another writing.").

26. Article 3.1(a) of the Employment Agreement "plainly" states, ". . . annual salary . . . payable to the Executive . . . shall be communicated in writing to the Executive . . . ." Highland Ex. 11. The 2009 Compensation Statement was such a communication in writing related to Daugherty's compensation, and its terms are, therefore, incorporated in the Employment Agreement. The inquiry now turns to whether the terms in the 2009 Compensation Statement are ambiguous.

27. A contract is not ambiguous if its words can be given a certain or definite legal meaning. *Coker*, 650 S.W.2d at 393. On the other hand, ambiguity in a contract exists if its terms are uncertain, doubtful, or reasonably susceptible to more than one meaning. *Towers of Tex., Inc. v. J & J Sys., Inc.*, 834 S.W.2d 1, 2 (Tex. 1992). Parties to a disputed contract are likely to take conflicting interpretation views, "but neither conflicting expectations nor disputation is sufficient to *create* an ambiguity." *Forbau v. Aetna Life Ins. Co.*, 876 S.W.2d 132, 134 (Tex. 1994) (emphasis in original).

28. Neither Highland nor Daugherty argue that the Employment Agreement or the 2009 Compensation Statement are ambiguous. Rather, Highland argues that the 2009 Compensation Statement lacks material terms rendering it an indefinite agreement.

29. An alleged contract that fails to address all essential and material terms with a reasonable degree of certainty and definiteness is unenforceable as a matter of law. *See APS Cap. Corp. v. Mesa Air Grp. Inc.*, 580 F.3d 265, 272 (5th Cir. 2009) ("In order to be a legally enforceable contract, an agreement must be formed around the contours of sufficiently specific terms."). Material terms "are those that the parties would reasonably regard as vitally important elements of their bargain," and "a contract must define its essential terms with enough precision to enable the court to determine the obligations of the parties." *Tex. Architectural Aggregate, Inc. v. ACM-Tex., LLC (In re ACM-Tex., Inc.)*, 430 B.R. 371, 408 (Bankr. W.D. Tex. 2010) (internal citation omitted). Essential terms are unique to the type of agreement, and, in the employment context, essential terms include compensation, duties, and responsibilities. *See City of Hou. V. Williams*, 353 S.W.3d 128, 139 (Tex. 2011).

30. Legally, there is significant difference between ambiguity and indefiniteness. *See Marx v. FDP, LP*, 474 S.W.3d 368, 375 (Tex. App.—San Antonio 2015, pet. denied) ("Unlike the trial court's obligation to resolve any ambiguity necessary to enforce a contract, indefiniteness in a contract makes the contract unenforceable."); *Sifuentes v. Carrillo*, 982 S.W.2d 500, 504 (Tex. App.—San Antonio 1998, pet. denied). When an ambiguity is discovered, courts seek to resolve the ambiguity "by looking at the contract as a whole in light of the circumstances present when the contract was entered" to ascertain the parties' intent. *Coker*, 650 S.W.2d at 393–94. "As a general matter, Texas courts have consistently held that a contract may be held void for indefiniteness if it fails to specify" essential terms. *Liberto v.*

D.F. Stauffer Biscuit Co., 441 F.3d 318, 324 (5th Cir. 2006). In either instance, however, determining whether the contract is ambiguous or indefinite is a question of law. *See Coker*, 650 S.W.2d at 394; *Abatement Inc. v. Williams*, 324 S.W.3d 858, 862 (Tex. App.—Houston [14th Dist.] 2010, pet. denied).

31. The Employment Agreement incorporates by reference the 2009 Compensation Statement, such that, read together, the contract contains all material terms and is not indefinite. The following language, though, from the 2009 Compensation Statement is ambiguous:

> Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

In particular, the phrases "deviates materially," "other compensation," and "fairly adjusted" are all uncertain and reasonably susceptible to more than one meaning. There are no other provisions in the Employment Agreement or the 2009 Compensation Statement that give certain or definite legal meaning to these phrases. Thus, the Court must resolve the ambiguity to enforce the agreement.

32. The "ultimate goal" when resolving an ambiguity "is always to determine the parties' intent as objectively expressed in the words of their agreement." *Endeavor Energy Res., L.P. v. Energen Res. Corp.*, 615 S.W.3d 144, 148 (Tex. 2020). To that end, courts may consider the facts and circumstances surrounding the contract, including "objectively determinable factors that give context to the parties' transaction." *Id.* (internal quotation and citation omitted). And while this extrinsic evidence is helpful in resolving the ambiguity, courts cannot

interpret "contractual language to say what it unambiguously does not say." *Id.* (citation modified).

33. There can be little doubt that Highland intended the tax refund referenced in the 2009 Compensation Statement to be Daugherty's bonus for his work performed in 2008. Daugherty seemingly admits as much in his proof of claim. The ambiguity arises from the remaining language of the 2009 Compensation Statement that provided for a fair adjustment to other compensation if the refund amount materially deviated from the estimate. Highland Ex. 13; Daugherty Ex. 14.

34. Daugherty asserts the language obligates Highland to compensate Daugherty if the IRS Audit results in him paying back to the IRS all or part of the refund he received in 2009. Dkt. No. 102, ¶¶ 10–12. Highland argues the language is too vague and indefinite to create an enforceable obligation. Dkt. No. 101, ¶¶ 29–39.

35. The Court endeavors to resolve the ambiguity by determining the parties' intent from the entirety of the Employment Agreement and 2009 Compensation Statement. In doing so, the Court gives the words used in these documents their plain and ordinary meaning because they were not specifically defined or used in a technical manner. *See Plains Expl. & Prod. Co. v. Torch Energy Advisors Inc.*, 473 S.W.3d 296, 307 (Tex. 2015). The Court concludes that, as a component of Daugherty's compensation, Highland estimated Daugherty's refund at $1,475,816 and, if the refund amount he received materially deviated from that estimate, Highland would adjust his other compensation to make up the difference.

Highland Ex. 13, Daugherty Ex. 14. Certainly, it is a material deviation if Daugherty must pay back the entire amount he received as a refund on account of the IRS Audit.

36. Nonetheless, whether the 2009 Compensation Statement language is ambiguous and capable of resolution is immaterial, because Daugherty's Reserved Claim faces a bigger obstacle for allowance against Highland's bankruptcy estate. While the language used in the 2009 Compensation Statement is susceptible to more than one meaning, the termination provisions in the Employment Agreement are clear and unambiguous.

37. Sections 4.5 and 4.6 of the Employment Agreement deal with an executive's voluntary termination of their employment with Highland. Each provision contains the following language:

> In the event the Executive declines to sign the separation agreement and release, he/she shall not be entitled to any severance, ***and*** the Company will have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment or termination.

Highland Ex. 11 at 6 (emphasis added). Attached to the Employment Agreement as Exhibit A is the form separation agreement and release.

38. Daugherty submitted his resignation from Highland in September 2011 with an effective date of October 31, 2011. Highland Ex. 12; Daugherty Ex. 15. If Daugherty signed the separation agreement attached as Exhibit A, under the Employment Agreement, Daugherty would have been entitled to severance pay and additional earned compensation or benefits, including, potentially, a true up of the 2008 Tax Refund. Daugherty did not sign the separation agreement and release.

39. In fact, Daugherty attempted to negotiate a different general release and separation agreement with Highland prior to his last day with the company. *See* Highland Ex. 41. This separation agreement specifically referenced in paragraph 3.(c)(ii) Daugherty's right to payment from Highland if Daugherty were obligated to pay back the 2008 Tax Refund to the IRS. *Id.*, ¶ 3.(c)(ii). Daugherty did not sign this separation agreement either.

40. Therefore, the Court finds that the Employment Agreement controls whether Daugherty's Reserved Claim should be allowed against the Highland bankruptcy estate. Pursuant to its express terms, Highland is absolved of all liability or obligations to Daugherty because he failed to execute either of the separation agreements presented to him. The Reserved Claim is disallowed.

Dondero's Oral Promises did not Create an Enforceable Guaranty.

41. To the extent Daugherty argues Dondero's promises are binding agreements to cover his contingent tax liability, this argument also fails.

42. "[I]t is so obviously just that a promisor receiving no benefits should be bound only by the exact terms of his promise." *Davis v. Patrick*, 141 U.S. 479, 488 (1891). In Texas, a promise by one person to answer for the debt of another person, must be in writing and "signed by the person to be charged with the promise or

agreement or by someone lawfully authorized to sign for him." Tex. Bus. & Com. Code § 26.01(a), (b)(2).[10]

43. There is, however, an exception to the general rule that a promise to pay another's debt must be in writing—the main purpose doctrine.

> [W]herever the main purpose and object of the promisor is, not to answer for another, but to subserve some purpose of his own, his promise is not within the statute [of frauds], although it may be in form a promise to pay the debt of another, and although the performance of it may incidentally have the effect of extinguishing the liability of another.

Lemmon v. Box, 20 Tex. 329, 332 (1857). Three elements must be met to satisfy the main purpose doctrine and thereby remove the promise from the statute of frauds:

> (1) the promisor intended to create primary responsibility in itself to pay the debt; (2) there was consideration for the promise; and (3) the consideration given for the promise was primarily for the promisor's own use and benefit—that is, the benefit it received was the promisor's main purpose for making the promise.

Cruz v. Andrews Restoration, Inc., 364 S.W.3d 817, 828 (Tex. 2012). "Consideration is a bargained-for exchange of promises or return performance and consists of benefits and detriments to the contracting parties." *Marx*, 474 S.W.3d at 378. Without it, a contract is unenforceable. *Id.*

---

[10] The Texas Business and Commerce Code defines "person" as "an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, any other legal or commercial entity, or a protected series or registered series of a for-profit entity." Tex. Bus. & Com. Code § 1.201(b)(27).

The evidence before the Court is that Daugherty worked in Highland's Texas office, negotiated his separation while in Texas, and the Employment Agreement identifies Texas in its "choice of law" provision. Thus, the Court will consider Texas law when construing Daugherty's testimony about Highland's promise to pay his unliquidated tax liability.

44. Assuming without deciding that Highland intended to create primary responsibility in itself to pay Daugherty's tax liability, the promise fails because there was no consideration. Though Daugherty testified that Dondero repeatedly promised to cover his tax liability, the only evidence before the Court of consideration for such promise is an unexecuted separation agreement. Highland Ex. 41. In that unexecuted separation agreement, Daugherty would give certain releases in favor of Highland and its subsidiaries in exchange for Highland's promise to pay "a 'Notice of Tax Due' or other such letter from a governmental taxing authority demanding payment for taxes that relates to an Internal Revenue Service audit." *Id.*, ¶¶ 3(c)(ii), 4. Neither party, however, agreed to be bound by the terms of the separation agreement, and there is no evidence that Dondero's oral promise, made conceivably on behalf of Highland, is relieved from the statute of frauds. These unwritten promises are not enforceable and, likewise, prohibit Daugherty from collecting his Reserved Claim from Highland's bankruptcy estate.

45. Based on an argument that Dondero promised to make Daugherty whole, for the reasons set forth above, Daugherty's Reserved Claim is disallowed.

Highland Fulfilled its Obligations under the Settlement Agreement.

46. Daugherty bears the burden of proving that Highland breached the settlement agreement by failing to turnover the HERA and ERA "books and records (spreadsheet)," which is remedied only by specific performance. *Movora LLC v. Gendreau*, 345 A.3d 997, 1011 (Del. 2025); *In re IBP, Inc. S'holders Litig.*, 789 A.2d 14, 53 (Del. Ch. 2001). To obtain specific performance under Delaware law, a plaintiff

must prove by clear and convincing evidence: (1) a valid contract exists, (2) the plaintiff is ready, willing, and able to perform, (3) a legal remedy would be inadequate, and (4) the balance of equities tips in favor of the party seeking specific performance. *Am. Healthcare Admin. Servs., Inc. v. Aizen*, 285 A.3d 461, 495 (Del. Ch. 2022).

47. "Delaware adheres to the objective theory of contracts, i.e. a contract's construction should be that which would be understood by an objective, reasonable third party." *Osborn v. Kemp*, 991 A.2d 1153, 1159 (Del. 2010). Courts will give effect to the plain-meaning of a contract's terms and provisions where they are clear and unambiguous. *Id.* at 1159–60.

48. To that end, the Delaware Court of Chancery has stated that "[t]he meaning of the term 'books and records' can readily be understood through § 18–305 of the LLC Act and through its corporate law and limited partnership law counterparts, 8 Del. C. § 220 and 6 Del. C. § 17–305, respectively."[11] *Arbor Place, L.P. v. Encore Opportunity Fund, L.L.C.*, No. CIV.A. 18928, 2002 WL 205681, at *3 n.3 (Del. Ch. Jan. 29, 2002) (finding tax returns were within the scope of a contractual "books and records" provision). The Delaware Limited Liability Company Act, 6 Del. C. § 18-305(a), generally identifies, at a minimum, the statutory books and records that a Delaware LLC must provide to its managers for inspection:

> (1) True and full information regarding the status of the business and financial condition of the limited liability company;

[11] 8 Del. C. § 220, the corporate books and records provision, sets out defined categories of corporate financial and governance documents and does not have a "just and reasonable" category. The Delaware Limited Partnership Law books and records provision, 6 Del. C. § 17–305, is substantially similar to the Delaware LLC Law's provision.

> (2) Promptly after becoming available, a copy of the limited liability company's federal, state and local income tax returns for each year;
>
> (3) A current list of the name and last known business, residence or mailing address of each member and manager;
>
> (4) A copy of any written limited liability company agreement and certificate of formation and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the limited liability company agreement and any certificate and all amendments thereto have been executed;
>
> (5) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and
>
> (6) Other information regarding the affairs of the limited liability company as is just and reasonable.

49. Highland provided Daugherty with HERA and ERA's financial, governance, and tax records. And, at Daugherty's request, Highland provided additional information that supported HERA and ERA's financial records. Daugherty's requests for "all" documents or documents that "related to" HERA and ERA were not "just and reasonable," and Highland was under no obligation to satisfy them. The Court thus finds that Highland did not breach the Books and Records Provision of the settlement agreement, and Daugherty is not entitled to specific performance.

50. The Court's conclusion here is without prejudice to HERA seeking discovery from Highland in connection with its lawsuit pending in the Northern District of Texas.

CONCLUSION

Daugherty's Reserved Claim is disallowed, and he shall collect nothing further from Highland's bankruptcy estate or the claimant trust. Daugherty's counterclaim for breach of contract and specific performance is denied. The Court will issue a judgment consistent with this Memorandum Opinion.

End of Memorandum Opinion

EXHIBITS, APPEAL, SEALEDEXH, SealedDocument

U.S. Bankruptcy Court
Northern District of Texas (Dallas)
Adversary Proceeding #: 25−03055−bwo

Assigned to: Bankruptcy Judge Brad W Odell
Lead BK Case: 19−34054
Lead BK Title: Highland Capital Management, L.P.
Lead BK Chapter: 11
Demand:
Nature[s] of Suit: 81 Subordination of claim or interest

Date Filed: 05/02/25

Plaintiff

Highland Capital Management, L.P.
100 Crescent Court, Suite 1850
Dallas, TX 75201

represented by **Zachery Z. Annable**
Hayward PLLC
10501 N. Central Expressway
Suite 106
Dallas, TX 75231
(972) 755−7108
Fax : (972) 755−7108
Email: zannable@haywardfirm.com
LEAD ATTORNEY

Gregory V. Demo
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7700
Fax : 212−561−7777
Email: gdemo@pszjlaw.com

Melissa S. Hayward
Hayward PLLC
10501 N. Central Expry, Ste. 106
Dallas, TX 75231
972−755−7104
Fax : 972−755−7104
Email: MHayward@HaywardFirm.com

John A Morris
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7760
Fax : 212−561−7777
Email: jmorris@pszjlaw.com

Jeffrey Nathan Pomerantz
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 11th Floor

Los Angeles, CA 90067
(310) 277−6910
Fax : (310) 201−0760
Email: jpomerantz@pszjlaw.com

Hayley R Winograd
Allen Matkins Leck Gamble Mallory & Natsis LLP
599 Lexington Avenue
Ste 38th Floor
New York, NY 10022
212−542−3420
Email: hwinograd@allenmatkins.com

V.

Defendant
−−−−−−−−−−−−−−−−−−−−−−

Patrick Hagaman Daugherty
3621 Cornell Avenue, Suite 830
Dallas, TX 75205

represented by **Jeffrey Reid Burley**
Gray Reed
1845 Woodall Rodgers Freeway
Suite 1300
Dallas, TX 75201
214−740−1400
Fax : 214−740−5771
Email: rburley@grayreed.com

Andrew K. York
Dal/Hou/Wac
1845 Woodall Rodgers Freeway
Suite 1300
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
Email: dyork@grayreed.com

Counter−Claimant
−−−−−−−−−−−−−−−−−−−−−−

Patrick Hagaman Daugherty
3621 Cornell Avenue, Suite 830
Dallas, TX 75205

represented by **Jeffrey Reid Burley**
(See above for address)

Andrew K. York
(See above for address)

V.

Counter−Defendant
−−−−−−−−−−−−−−−−−−−−−−

Highland Capital Management, L.P.
100 Crescent Court, Suite 1850
Dallas, TX 75201

represented by **Zachery Z. Annable**
(See above for address)

Gregory V. Demo
(See above for address)

John A Morris
(See above for address)

Jeffrey Nathan Pomerantz
(See above for address)

Hayley R Winograd
(See above for address)

Filing Date	Docket Text
05/02/2025	1 Adversary case 25−03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/02/2025	Receipt of filing fee for Complaint(25−03055−sgj) [cmp,cmp] (350.00). Receipt number A32482304, amount $ 350.00 (re: Doc# 1). (U.S. Treasury)
05/05/2025	2 Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3 Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre−trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us−courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025	4 Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025	5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025	6 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025	7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025	8 BNC certificate of mailing − PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025	9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025	10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025	11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion*

	to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)
07/28/2025	12 Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025	13 Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us−courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025	14 Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us−courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025	15 Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025	16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
08/18/2025	17 Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025	18 Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025	19 Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to

	dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)
09/04/2025	20 Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/04/2025	21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.) (Jeng, Hawaii)
09/04/2025	22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.) (Jeng, Hawaii)
09/05/2025	23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025	24 BNC certificate of mailing − PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)
09/19/2025	25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
09/19/2025	Receipt of filing fee for Notice of appeal(25−03055−sgj) [appeal,ntcapl] (298.00). Receipt number A32926647, amount $ 298.00 (re: Doc# 25). (U.S. Treasury)
09/23/2025	27 Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
09/23/2025	28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)

09/23/2025	30 Notice of docketing notice of appeal. Civil Action Number: 3:25−cv−02584−E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
09/25/2025	31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
09/25/2025	32 BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
09/26/2025	33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
09/29/2025	34 Request for Transcript regarding a hearing held on 9/4/2025. The requested turn−around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
09/30/2025	35 Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross−Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972−786−3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025	36 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025	37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025	38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025	

	39 Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)
10/03/2025	40 Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
10/03/2025	41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
10/04/2025	42 BNC certificate of mailing − PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
10/04/2025	43 BNC certificate of mailing − PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
10/06/2025	44 Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
10/09/2025	45 Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
10/09/2025	46 Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. (Morris, John)
10/09/2025	47 Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
10/09/2025	48 Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. (Demo, Gregory)
10/13/2025	49 Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50 Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	

	51 Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53 Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25−cv−02584−E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54 Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25−cv−02584−E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55 Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57 DISTRICT COURT Stipulation concerning supplement to record n appeal re: 3:25−cv−02584−E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58 ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25−03055, effective immediately. The Bankruptcy Clerk of Court will re−assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025	Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio*

	Recordings, Transcripts, and Related Documents)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3−−Part 1 # 4 Exhibit 3−−Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).
12/29/2025	63 Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter−Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
12/30/2025	64 Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter−Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/30/2025	65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/30/2025	66 Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter−Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/31/2025	67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
01/02/2026	68 BNC certificate of mailing − PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
01/05/2026	69 Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
01/05/2026	70 Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
01/08/2026	71 Reply to (related document(s): 69 Response filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. (Annable, Zachery)
01/12/2026	72 Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related

	document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3−−Part 1 # 4 Exhibit 3−−Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026	73 Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/14/2026	75 Hearing held on 1/14/2026. **Motion to compel 60 granted; Defendant must produce discovery no later than 5 pm on Friday, January 16, 2026; Plaintiff to prepare order and circulate to Defendant's counselMotion to Stay Pending Appeal 33 taken under advisement. ** (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A), 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order)) (Noble, Nicholas) (Entered: 01/16/2026)
01/15/2026	74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)

01/17/2026	76 BNC certificate of mailing − PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
01/23/2026	77 Agreed Protective Order Concerning Subpoena to Third−Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
01/25/2026	78 BNC certificate of mailing − PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third−Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
01/26/2026	79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
01/26/2026	80 Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
01/28/2026	81 BNC certificate of mailing − PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026	82 BNC certificate of mailing − PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/04/2026	83 Status Conference set by the Court. Status conference to be held on 2/26/2026 at 03:00 PM by WebEx; the WebEx attendance information will be posted to the Court's website (www.txnb.uscourts.gov) under Judge Odell's Hearing Dates and Calendar tab prior to the hearing. (Wimberley, Shelby)
02/09/2026	84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026	85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026	86 BNC certificate of mailing − PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026	87 Notice to take deposition of T.J. Liles−Tims filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P.. (Annable, Zachery)

02/26/2026	92 Hearing held on 2/26/2026. **COURT TO ISSUE ORDER SETTING NEW TRIAL DATE.** (RE: related document(s) 83 Status Conference set by the Court. Status conference to be held on 2/26/2026 at 03:00 PM by WebEx; the WebEx attendance information will be posted to the Court's website (www.txnb.uscourts.gov) under Judge Odell's Hearing Dates and Calendar tab prior to the hearing.) (Noble, Nicholas) (Entered: 03/13/2026)
02/27/2026	88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026	89 BNC certificate of mailing − PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)
03/02/2026	90 ***NOTE FROM THE COURT: Please refer to Judge Odell's Judge−Specific Guidelines regarding exhibits at https://www.txnb.uscourts.gov/content/judge−brad−w−odell *** (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm.) (Wimberley, Shelby)
03/10/2026	91 Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026	93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026	94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026	95 Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter−Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026	96 BNC certificate of mailing − PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)

04/02/2026	97 Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
04/02/2026	98 Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
04/08/2026	99 Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
04/10/2026	100 Proposed pre−trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
04/13/2026	101 Joint Pre−Trial order (RE: related document(s)1 Complaint filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
04/13/2026	102 Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
04/14/2026	103 Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
04/14/2026	104 Amended Witness and Exhibit List *(Highland Capital Management, L.P's Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
04/15/2026	105 Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter−Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD−01 # 2 Exhibit PD−02 # 3 Exhibit PD−03 # 4 Exhibit PD−04 # 5 Exhibit PD−05 # 6 Exhibit PD−06 # 7 Exhibit PD−07 # 8 List of 20 Largest Creditors PD−08 # 9 Exhibit PD−09 # 10 Exhibit PD−10 # 11 Exhibit PD−11 # 12 Exhibit PD−12 # 13 Exhibit PD−13 # 14 Exhibit PD−14 # 15 Exhibit PD−16 # 16 Exhibit PD−16 # 17 List of 20 Largest Creditors PD−17 # 18 Exhibit PD−18 # 19 Exhibit PD−19 # 20 Exhibit PD−20 # 21 Exhibit PD−21 # 22 Exhibit PD−22 # 23 Exhibit PD−23 # 24 Exhibit PD−24 # 25 Exhibit PD−25 # 26 Exhibit PD−26 # 27 Exhibit PD−27 # 28 Exhibit PD−28 # 29 Exhibit PD−29 # 30 Exhibit PD−30 # 31 Exhibit PD−31 # 32 Exhibit PD−32 # 33 Exhibit PD−33 # 34 Exhibit PD−34 # 35 Exhibit PD−35 # 36 Exhibit PD−36 # 37 Exhibit PD−37 # 38 List of 20 Largest Creditors PD−38 # 39 List of 20 Largest Creditors PD−39 # 40 Exhibit PD−40 # 41 List of 20 Largest Creditors PD−41 # 42 Exhibit PD−42 # 43 Exhibit PD−43 # 44 Exhibit PD−44 # 45 Exhibit PD−45 # 46 Exhibit PD−46 # 47 Exhibit PD−47 # 48 Exhibit PD−48 # 49 Exhibit PD−49 # 50 Exhibit PD−50 # 51 Exhibit PD−51 # 52 Exhibit PD−52 # 53 Exhibit PD−53 # 54 Exhibit PD−54 # 55 Exhibit PD−55 # 56 Exhibit PD−56 # 57 Exhibit PD−57 # 58 Exhibit PD−58 # 59 Exhibit PD−59 # 60 Exhibit PD−60 # 61 Exhibit PD−61 # 62 Exhibit PD−62 # 63 Exhibit PD−63 # 64 Exhibit PD−64 # 65 Exhibit PD−65 # 66 Exhibit PD−66 # 67 Exhibit PD−67 # 68 Exhibit PD−68 # 69 Exhibit PD−69 # 70 Exhibit PD−70 # 71 Exhibit PD−71 # 72 Exhibit PD−72 # 73 Exhibit PD−73 # 74 Exhibit PD−74 # 75 Exhibit PD−75 # 76 Exhibit PD−76 # 77 Exhibit PD−77 # 78 Exhibit PD−78 # 79 Exhibit PD−79 # 80 Exhibit PD−80 # 81 Exhibit PD−81 # 82 Exhibit PD−82 # 83 Exhibit PD−83 # 84 Exhibit PD−84 # 85 Exhibit PD−85 # 86 Exhibit PD−86 # 87 Exhibit PD−87 # 88 Exhibit PD−88 # 89 Exhibit PD−89 # 90 Exhibit PD−90 # 91 Exhibit PD−91 # 92 Exhibit PD−92 # 93 Exhibit PD−93 # 94 Exhibit PD−94) (York, Andrew)
04/15/2026	106 Joint Motion to file document under seal.*Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter−Claimant Patrick Hagaman Daugherty (York, Andrew)

04/15/2026	107 Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
04/15/2026	108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
04/15/2026	109 **SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	110 **SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	111 **SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	112 **SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	113 **SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	114 **SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	115 **SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	116 **SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE:

	related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	117 **SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118 **SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119 **SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120 **SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121 **SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122 **SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123 **SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P's Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order** filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124 BNC certificate of mailing − PDF document. (RE: related document(s)101 Joint Pre−Trial order (RE: related document(s)1 Complaint filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	125 **SEALED document regarding: Notice of Filing Sealed Exhibits and Sealed Exhibits for Defendant Patrick Daugherty per court order** filed by Defendant Patrick Hagaman Daugherty, Counter−Claimant Patrick Hagaman Daugherty (RE: related document(s)108 Order on motion to seal). (Attachments: # 1 Exhibit PD−01 # 2 Exhibit PD−01 # 3 Exhibit PD−02 # 4 Exhibit PD−03 # 5 Exhibit PD−04 # 6 Exhibit PD−05 # 7 Exhibit PD−06 # 8 Exhibit PD−07 # 9 Exhibit PD−08 # 10 Exhibit PD−09 # 11 Exhibit PD−10 # 12 Exhibit PD−11 # 13 Exhibit PD−12 # 14 Exhibit PD−13 # 15 Exhibit PD−14 # 16 Exhibit PD−15 # 17 Exhibit PD−16 # 18 Exhibit PD−17 # 19 Exhibit PD−18 # 20 Exhibit PD−19 # 21 Exhibit PD−20 # 22 Exhibit PD−21 # 23 Exhibit PD−21a # 24 Exhibit PD−22 # 25 Exhibit PD−23.1 # 26 Exhibit PD−23.2 # 27 Exhibit PD−24 # 28 Exhibit PD−25 # 29 Exhibit PD−26 # 30 Exhibit PD−27 # 31 Exhibit PD−28 # 32 Exhibit PD−29 # 33 Exhibit PD−30 # 34 Exhibit PD−31 # 35 Exhibit PD−32 # 36 Exhibit PD−33 # 37 Exhibit PD−34 # 38 Exhibit PD−35 # 39 Exhibit PD−36 # 40 List of 20 Largest Creditors PD−37 # 41 List of 20 Largest Creditors PD−38 # 42 Exhibit PD−39 # 43 Exhibit PD−40 # 44 Exhibit PD−41 # 45 Exhibit PD−42 # 46 Exhibit PD−43 # 47 Exhibit PD−44 # 48 Exhibit PD−45 # 49 Exhibit PD−46 # 50 List of 20 Largest Creditors PD−47 # 51 Exhibit PD−48 # 52 Exhibit PD−49 # 53 Exhibit PD−50 # 54 Exhibit PD−51 # 55 Exhibit PD−52 #

	56 Exhibit PD−53 # 57 Exhibit PD−54 # 58 Exhibit PD−55 # 59 Exhibit PD−56 # 60 Exhibit PD−57 # 61 Exhibit PD−58 # 62 Exhibit PD−59 # 63 Exhibit PD−60 # 64 Exhibit PD−61 # 65 Exhibit PD−62 # 66 Exhibit PD−63 # 67 Exhibit PD−64 # 68 Exhibit PD−65 # 69 Exhibit PD−66 # 70 Exhibit PD−67 # 71 Exhibit PD−68 # 72 Exhibit PD−69 # 73 Exhibit PD−70 # 74 Exhibit PD−71 # 75 Exhibit PD−72 # 76 Exhibit PD−73 # 77 Exhibit PD−74 # 78 Exhibit PD−75 # 79 Exhibit PD−76 # 80 Exhibit PD−77 # 81 Exhibit PD−78 # 82 Exhibit PD−79 # 83 Exhibit PD−80 # 84 Exhibit PD−81 # 85 Exhibit PD−82 # 86 Exhibit PD−83 # 87 Exhibit PD−84 # 88 Exhibit PD−85 # 89 Exhibit PD−86 # 90 Exhibit PD−87 # 91 Exhibit PD−88 # 92 Exhibit PD−89 # 93 Exhibit PD−90 # 94 Exhibit PD−91 # 95 Exhibit PD−92 # 96 Exhibit PD−93 # 97 Exhibit PD−94) (York, Andrew)
04/16/2026	126 Support/supplemental document*Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter−Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD−95 # 2 Exhibit PD−96 # 3 Exhibit PD−97 # 4 Exhibit PD−98) (York, Andrew)
04/16/2026	127 Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre−trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128 Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129 BNC certificate of mailing − PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130 Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	131 Hearing held on 4/17/2026. **Matter taken underadvisement; each side to file proposed Findings of Fact andConclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25−03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).) (Noble, Nicholas)
04/21/2026	132 Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25−03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter−Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133 Request for Transcript regarding a hearing held on 4/17/2026. The requested turn−around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
05/14/2026	134 PDF with attached Audio File. Court Date & Time [04/17/2026 09:04:13 AM]. File Size [43638 KB]. Run Time [03:06:42]. (Part #1 Morning). (admin).

05/18/2026	135 Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25−03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken underadvisement; each side to file proposed Findings of Fact andConclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25−03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
06/05/2026	136 Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
06/05/2026	137 Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
07/24/2026	138 Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
07/24/2026	139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
07/26/2026	140 BNC certificate of mailing − PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
07/26/2026	141 BNC certificate of mailing − PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
08/07/2026	142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
08/07/2026	Receipt of filing fee for Notice of appeal(25−03055−bwo) [appeal,ntcapl] (298.00). Receipt number A34035137, amount $ 298.00 (re: Doc# 142). (U.S. Treasury)
08/11/2026	144 Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146 DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26−cv−02664−S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147 BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of

	appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)
08/21/2026	148 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)146 Notice of docketing notice of appeal/record). Appellee designation due by 09/4/2026. (York, Andrew)
08/28/2026	149 Clerk's correspondence requesting an amendment or correction to a filing from attorney for creditor. (RE: related document(s)148 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)146 Notice of docketing notice of appeal/record). Appellee designation due by 09/4/2026. filed by Counter−Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) Responses due by 9/2/2026. (Blanco, J.)
09/02/2026	150 Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)148 Appellant designation). (York, Andrew)
10/05/2026	151 DISTRICT COURT SPECIAL ORDER NO. 3−364: The cases listed on Exhibit A to this order are transferred to Judge Kasdin M. Mitchell's docket, until and unless modified by subsequent order of the court, and shall be designated by the suffix letter "M." (3:25−cv−02584−M) (RE: related document(s)30 Notice of docketing notice of appeal. Civil Action Number: 3:25−cv−02584−E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty)) (Almaraz, Jeanette) (Entered: 10/07/2026)

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

In Re: Highland Capital Management, L.P

§

§ Case No 19−34054−SGJ-11

Patrick Daugherty - Appellant § 25-03055

vs §

3:26-CV-02664-S

Highland Capital Management, L.P., et al - Appellee

§

§

[138] Judgment. Entered on 8/7/2026

APPELLANT RECORD

VOLUME 2

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055-bwo
Defendant.	§	
	§	INDEX

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the July 24, 2026 *Judgment and Memorandum Opinion* [Docket Nos. 138, 139 in Adversary No. 25-03055-bwo]. *See Notice of Appeal* [Docket No. 142 in Adversary No. 25-03055-bwo].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court erred in disallowing Daugherty's Reserved Claim based on the Employment Agreement's termination provisions, when the Court itself found the 2009 Compensation Statement was incorporated into the Employment Agreement and resolved its ambiguity in Daugherty's favor, concluding that Highland Capital Management, L.P. ("Highland") intended to compensate Daugherty for any material deviation in his 2008 tax refund.

2. Whether the Bankruptcy Court erred in applying the "no further liability or obligation" language of Sections 4.5 and 4.6 of the Employment Agreement to extinguish Daugherty's compensation entitlement under the 2009 Compensation Statement, when that language pertains to severance contingent upon execution of a separation agreement and not to earned compensation that accrued during Daugherty's active employment.

3. Whether the Bankruptcy Court erred in holding that James Dondero's oral promises to cover Daugherty's contingent tax liability were unenforceable under Texas's statute of frauds, Tex. Bus. & Com. Code § 26.01, when Highland had a main purpose of its own in making the promise and when the Court failed to consider Daugherty's continued employment and forbearance as adequate consideration.

4. Whether the Bankruptcy Court erred in denying Daugherty's counterclaim for specific performance of the Settlement Agreement's books-and-records provision by construing that provision through the statutory categories of 6 Del. C. § 18-305(a), rather than by the plain meaning of the negotiated Settlement Agreement requiring Highland to "transfer its *interests* in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims," including "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system."

5. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of

the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

6. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, inter alia, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

Vol. 1
000001
000008

1. Notice of Appeal for Adversary No. 25-03055-bwo [Docket No. 142].

2. The Judgment Order or Decree appealed from: July 24, 2026 – Judgment [Docket No. 138].

000010

3. July 24, 2026 – Memorandum of Opinion [Docket No. 139].

000035

4. Docket Sheet for Adversary Case No. 25-03055-bwo kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 25-03055-bwo:

Vol. 2

Filing Date	Docket No.	Description
05/02/2025	1	(16 pgs; 3 docs) Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/05/2025	2	(4 pgs; 2 docs) Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3	(2 pgs) Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre-trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us-

000053
000064
000073

Vol. 2

		courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025 000076	4	(4 pgs) Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025 000079	5	(13 pgs; 2 docs) Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025 000092	6	(5 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025 000097	7	(10 pgs) Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025 000107	8	(12 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025 000119	9	(13 pgs; 2 docs) Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025 000132	10	(13 pgs; 2 docs) Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025 000145	11	(43 pgs; 5 docs) Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

Vol. 2

07/28/2025 000188	12	(4 pgs) Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025 000192	13	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025 000195	14	(6 pgs; 2 docs) Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025 000201	15	(13 pgs) Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025 000214	16	(5 pgs) Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)

Vol. 2

08/18/2025 000219	17	(3 pgs) Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025 000222	18	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025 000225	19	(225 pgs; 12 docs) Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)
Vol. 3 09/04/2025 000450	20	(48 pgs; 2 docs) Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/05/2025 000498	23	(3 pgs) Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025 000501	24	(5 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)

Case 3:26-cv-02664-S Document 12-2 Filed 10/27/26 Page 8 of 422 PageID 189

09/19/2025	25	(9 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
09/23/2025	27	(13 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
09/23/2025	28	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
09/23/2025	30	(6 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02584-E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
09/25/2025	31	(7 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
09/25/2025	32	(4 pgs) BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
09/26/2025	33	(44 pgs; 2 docs) Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
09/29/2025	34	(1 pg) Request for Transcript regarding a hearing held on 9/4/2025. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

vol. 3

09/30/2025	35	(36 pgs) Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025	36	(6 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025	37	(14 pgs) Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025	38	(11 pgs) Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025	39	(45 pgs; 2 docs) Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)

000592
000628
000634
000648
000659

Vol. 3

000704	10/03/2025	40	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
000707	10/03/2025	41	(6 pgs) Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
000713	10/04/2025	42	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
000729	10/04/2025	43	(13 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)

Vol 4

000742	10/06/2025	44	(29 pgs) Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
000771	10/09/2025	45	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
000774	10/09/2025	46	(3 pgs) Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Morris, John)
000777	10/09/2025	47	(3 pgs) Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
000780	10/09/2025	48	(3 pgs) Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Demo, Gregory)
000783	10/13/2025	49	(9 pgs) Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related

		documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50	(1 pg) Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	51	(6 pgs) Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53	(1 pg) Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25-cv-02584-E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54	(1 pg) Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25-cv-02584-E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55	(3 pgs) Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56	(8 pgs) Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57	(7 pgs) DISTRICT COURT Stipulation concerning supplement to record on appeal re: 3:25-cv-02584-E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of

Vol 4

		issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58	ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25-03055, effective immediately. The Bankruptcy Clerk of Court will re-assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025		Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59	(11 pgs) Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60	(14 pgs; 2 docs) Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61	(156 pgs; 7 docs) Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62	(3 pgs) Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).

000819

000830

000844

Vol 5

001000

Vol 5

12/29/2025 001003	63	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
12/30/2025 001006	64	(19 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/30/2025 001025	65	(3 pgs) Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/30/2025 001028	66	(14 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/31/2025 001042	67	(14 pgs) Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
01/02/2026 001056	68	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
01/05/2026 001072	69	(12 pgs) Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
01/05/2026 001084	70	(10 pgs; 2 docs) Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
01/08/2026 001094	71	(10 pgs) Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion*

Case 3:26-cv-02664-S Document 1-2 Filed 10/27/26 Page 14 of 429 PageID 195

Vol 5		*to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
01/12/2026 001104	72	(4 pgs) Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff

Vol. 5

		Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026	73	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
001108		
01/15/2026	74	(2 pgs) Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)
001111		
01/17/2026	76	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
001113		
01/23/2026	77	(16 pgs) Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
001117		
01/25/2026	78	(18 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
001133		
01/26/2026	79	(13 pgs) Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
001151		
01/26/2026	80	(13 pgs) Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
001164		
01/28/2026	81	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman
001179		

Vol 5

		Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026	82	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/09/2026	84	(4 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026	85	(7 pgs) Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026	86	(9 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026	87	(3 pgs) Notice to take deposition of T.J. Liles-Tims filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
02/27/2026	88	(2 pgs) Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026	89	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)

001192
001207
001211
001218
001227
001230
001232

03/10/2026	91	(3 pgs) Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026	93	(5 pgs) Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026	94	(8 pgs) Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026	95	(3 pgs) Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026	96	(10 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)
04/02/2026	97	(8 pgs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)

Vol. 5

001273	04/02/2026	98	(8 pgs) Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
001281	04/08/2026	99	(9 pgs) Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001290	04/10/2026	100	(28 pgs) Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
001318	04/13/2026	101	(28 pgs) Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
001346	04/13/2026	102	(21 pgs) Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
001367	04/14/2026	103	(8 pgs) Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
001375	04/14/2026	104	(8 pgs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
001383	04/15/2026	105	(1782 pgs; 95 docs) Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-01 # 2 Exhibit PD-02 # 3 Exhibit PD-03 # 4 Exhibit PD-04 # 5 Exhibit PD-05 # 6 Exhibit PD-06 # 7 Exhibit PD-07 # 8 List of 20 Largest Creditors PD-08 # 9 Exhibit PD-09 # 10 Exhibit PD-10 # 11 Exhibit PD-11 # 12 Exhibit PD-12 # 13 Exhibit PD-13 # 14 Exhibit PD-14 # 15 Exhibit PD-16 # 16 Exhibit PD-16 # 17 List of 20 Largest Creditors PD-17 # 18 Exhibit PD-18 # 19 Exhibit PD-19 # 20 Exhibit PD-20 # 21 Exhibit PD-21 # 22 Exhibit PD-22 # 23 Exhibit PD-23 # 24 Exhibit PD-24 # 25 Exhibit PD-25 # 26 Exhibit PD-26 # 27 Exhibit PD-27 # 28 Exhibit PD-28 # 29 Exhibit PD-29 # 30 Exhibit PD-30 # 31 Exhibit PD-31 # 32 Exhibit PD-32 # 33 Exhibit PD-33 # 34 Exhibit PD-34 # 35 Exhibit PD-35 # 36 Exhibit PD-36 # 37 Exhibit PD-37 # 38 List of 20 Largest Creditors PD-38 # 39 List of 20 Largest Creditors PD-39 # 40 Exhibit PD-40 # 41 List of 20 Largest Creditors PD-41 # 42 Exhibit PD-42 # 43 Exhibit PD-43 # 44 Exhibit PD-44 # 45 Exhibit PD-45 # 46 Exhibit PD-46 # 47 Exhibit PD-47 # 48 Exhibit PD-48 # 49 Exhibit PD-49 # 50 Exhibit PD-50 # 51 Exhibit PD-51 # 52 Exhibit PD-52 # 53 Exhibit PD-53 # 54 Exhibit PD-54

Vol 5 001383		# 55 Exhibit PD-55 # 56 Exhibit PD-56 # 57 Exhibit PD-57 # 58 Exhibit PD-58 # 59 Exhibit PD-59 # 60 Exhibit PD-60 # 61 Exhibit PD-61 # 62 Exhibit PD-62 # 63 Exhibit PD-63 # 64 Exhibit PD-64 # 65 Exhibit PD-65 # 66 Exhibit PD-66 # 67 Exhibit PD-67 # 68 Exhibit PD-68 # 69 Exhibit PD-69 # 70 Exhibit PD-70 # 71 Exhibit PD-71 # 72 Exhibit PD-72 # 73 Exhibit PD-73 # 74 Exhibit PD-74 # 75 Exhibit PD-75 # 76 Exhibit PD-76 # 77 Exhibit PD-77 # 78 Exhibit PD-78 # 79 Exhibit PD-79 # 80 Exhibit PD-80 # 81 Exhibit PD-81 # 82 Exhibit PD-82 # 83 Exhibit PD-83 # 84 Exhibit PD-84 # 85 Exhibit PD-85 # 86 Exhibit PD-86 # 87 Exhibit PD-87 # 88 Exhibit PD-88 # 89 Exhibit PD-89 # 90 Exhibit PD-90 # 91 Exhibit PD-91 # 92 Exhibit PD-92 # 93 Exhibit PD-93 # 94 Exhibit PD-94) (York, Andrew)
001385	04/15/2026	106 (11 pgs) Joint Motion to file document under seal. *Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (York, Andrew)
Vol. 6 001396 Thru Vol 7	04/15/2026	107 (696 pgs; 66 docs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
Vol 7 002092	04/15/2026	108 (5 pgs) Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
002097	04/15/2026	109 SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital

Case 3:25-cv-03036-S Document 12-2 Filed 10/27/26 Page 20 of 422 PageID 201

Vol. 7

		Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	110	SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	111	SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	112	SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	113	SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	114	SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	115	SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	116	SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)

04/15/2026	117	SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118	SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119	SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120	SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121	SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122	SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123	SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124	(30 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)101 Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff

		Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	126	(64 pgs; 5 docs) Support/supplemental document *Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-95 # 2 Exhibit PD-96 # 3 Exhibit PD-97 # 4 Exhibit PD-98) (York, Andrew)
04/16/2026	127	(3 pgs) Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128	(15 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129	(7 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130	(9 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	132	(1 pg) Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133	(1 pg) Request for Transcript regarding a hearing held on 4/17/2026. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

Vol. 8	05/18/2026	135	(327 pgs) Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken under advisement; each side to file proposed Findings of Fact and Conclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
002220			
Vol. 9	06/05/2026	136	(47 pgs) Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
002555			
002602	06/05/2026	137	(19 pgs) Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
002621	07/24/2026	138	(2 pgs) Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
002623	07/24/2026	139	(25 pgs) Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
002648	07/26/2026	140	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002652	07/26/2026	141	(27 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002679	08/07/2026	142	(7 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
002686	08/11/2026	144	(9 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation

		due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146	(4 pgs) DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26-cv-02664-S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147	(4 pgs) BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver of, any and all rights, remedies, challenges and objections.

Respectfully submitted this 2nd day of September, 2026,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of September 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adversary Proceeding No.
	§	
v.	§	_____
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

COMPLAINT FOR (1) DISALLOWANCE OF CLAIM NO. 205 IN ITS ENTIRETY, (2) ESTIMATION OF CLAIM NO. 205 FOR ALLOWANCE PURPOSES, OR (3) SUBORDINATION OF ANY ALLOWED PORTION OF CLAIM NO. 205 OF PATRICK HAGAMAN DAUGHERTY

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor" as applicable) in the above-captioned chapter 11 case ("Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), files the *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* (the "Complaint"), alleging upon knowledge of its own actions and upon information and belief as to all other matters as follows:

PRELIMINARY STATEMENT[2]

1. Patrick Daugherty is a former employee of, and former limited partner in, the Debtor. Mr. Daugherty filed a claim (denoted as Claim No. 205) in which he asserted a myriad of claims against the Debtor. All of Mr. Daugherty's claims were settled except his unliquidated, contingent claim that the Debtor has a continuing and indefinite obligation to make him whole if a tax refund he apparently received for tax year 2008 on account of his Partnership Interests is ever successfully challenged by the IRS.

2. As discussed below, in 2009, Mr. Daugherty was allocated his applicable losses from Highland for tax year 2008 on account of his Partnership Interests. The allocation of losses in 2009 fully satisfied the 2008 Refund line item in the 2009 Statement; Mr. Daugherty received exactly what he was entitled to receive from Highland. Accordingly, Mr. Daugherty's Claim against the Debtor for additional compensation for 2008 has no basis and the Claim should be disallowed.

3. To avoid this result, Mr. Daugherty alleges the Debtor is required to make him whole if any portion of the tax refund he received for 2008 on account of his Partnership Interest

[2] All capitalized terms used but not defined in this Preliminary Statement have the meanings given to them below.

is clawed back by the IRS—Highland's 2008 tax return is currently subject to an IRS audit. But the 2009 Statement contains no future, ongoing obligations. Under the 2009 Statement, if Mr. Daugherty received the material equivalent of the "2008 Refund" (which he apparently did), Highland's obligations have been satisfied in full. The 2009 Statement contains no ongoing obligation for Highland to defend Mr. Daugherty or indemnify him. And it would violate basic tenets of contract law to read vague and indefinite precatory language in the 2009 Statement as creating a specific continuing and binding payment obligation that can be enforced forever. This is particularly true where the agreement that governed Mr. Daugherty's employment by the Debtor expressly provided that after his separation from the Debtor, the Debtor would have no further liability or obligation to Mr. Daugherty in connection with his employment.

4. However, even if Mr. Daugherty's Claim is not disallowed in its entirely, it remains contingent on the outcome of the 2008 Audit. It is unclear when, how, or if the 2008 Audit will be finally resolved. Moreover, if the Claim is not disallowed, it will need to be estimated—after taking into account the likely outcome of the 2008 Audit, including adjustments that result therefrom—pursuant to 11 U.S.C. § 502(c). The Claim (in whatever amount) based on his partnership tax allocations must also be subordinated to the interests in Class 10 pursuant to 11 U.S.C. § 510(b).

JURISDICTION AND VENUE

5. This Adversary Proceeding arises in and relates to Highland's Bankruptcy Case.

6. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

7. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b), and, pursuant to Bankruptcy Rule 7008, Highland consents to the entry of a final order by the Court if

it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the U.S. Constitution.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

THE PARTIES

9. Highland is a limited partnership formed under the laws of Delaware with a business address at 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

10. Upon information and belief, Defendant Patrick Daugherty is an individual residing at 3621 Cornell Avenue, Suite 830, Dallas, Texas 75205.

STATEMENT OF FACTS

I. The Bankruptcy Case and Mr. Daugherty's Claims

11. On October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code commencing the Bankruptcy Case.

12. On April 1, 2020, Mr. Daugherty filed Proof of Claim No. 67 ("Claim 67"). On April 6, 2020, Mr. Daugherty filed Proof of Claim No. 77 ("Claim 77"), which superseded and replaced Claim 67 in its entirety. On December 23, 2020, Mr. Daugherty filed Proof of Claim No. 205 (the "Claim" or "Claim 205"), which superseded and replaced Claim 77 in its entirety.

13. On February 22, 2021, this Court entered the *Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943],[3] which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Bankr. Docket No. 1808] (as amended, the "Plan"). The Plan became effective August 11, 2021 [Bankr. Docket No. 2700].

[3] Bankr. Docket No. __" refers to the docket maintained in Case No. 19-34054-sgj11.

14. On December 8, 2021, the Debtor filed *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the "Settlement Motion").

15. This Court approved the Settlement Motion on March 8, 2022 [Bankr. Docket No. 3298] (the "Settlement Order"), disallowing Claim 67 and Claim 77 with prejudice and resolving all of Claim 205 other than Mr. Daugherty's claim for the 2008 Refund.

II. Mr. Daugherty Was Employed by the Debtor and Became a Limited Partner

16. Mr. Daugherty was hired by the Debtor in 1998. Later, he became eligible to participate in the Debtor's long-term incentive plan (the "LTIP"). Pursuant to the LTIP, at various times, Mr. Daugherty received limited partnership interests in the Debtor (the "Partnership Interests") and became one of the Debtor's limited partners. At all relevant times with respect to Claim 205 as it relates to the 2008 Tax Refund, Mr. Daugherty's employment was governed by an *Amended and Restated Employment Agreement*, dated as of December 31, 2004 (the "Employment Agreement"). For the 2008 tax year, Mr. Daugherty was allocated 0.740262% of the taxable losses of the Debtor on account of his Partnership Interests.

17. Because the Debtor was a limited partnership, it was a pass-through entity for tax purposes and paid no federal income tax. The Debtor's limited partners, including Mr. Daugherty, were therefore required to pay individual federal income taxes (among other taxes) based on, among other things, their allocable share of the Debtor's income, if any, or could use their allocable share of any losses to offset other current income or, in certain circumstances, carry back losses, and receive a tax refund from the Internal Revenue Service (the "IRS"). Thus, because of his Partnership Interests, Mr. Daugherty was entitled to receive a pass through of his allocable share of any taxable gains or losses generated by the Debtor. Taxable gains increase tax liability; taxable losses decrease tax liability.

III. The 2009 Statement and IRS Audit

18. On February 27, 2009, the Debtor provided Mr. Daugherty with a *Comprehensive Compensation and Benefits Statement* recapping all earnings, awards, and benefits Mr. Daugherty received in connection with his employment by and Partnership Interests in the Debtor during calendar year 2008 (the "2009 Statement"). A true and accurate copy of the 2009 Statement is attached hereto as **Exhibit A**. Such statements were provided to all employees each year at the conclusion of the annual performance review and bonus cycle.

19. The 2009 Statement included what Highland estimated to be the tax refund Mr. Daugherty could expect for tax year 2008 in the amount of $1,475,816 (the "2008 Refund"). That amount purported to be an estimate of the pre-tax equivalent refund that Mr. Daugherty should have expected to receive from the IRS on account of the losses attributable to his Partnership Interests for the 2008 tax year.

20. The 2008 Refund was "an estimated amount" based on the notion that losses in 2008 would equal or exceed total partnership gains that had been allocated to Mr. Daugherty in tax years 2005, 2006, and 2007 and assuming a 27% effective tax rate for each year for all of the employee limited partners. The amount was then "grossed up" by 35% so that Mr. Daugherty could compare it to the value of the other benefits for being a Debtor partner and employee[4]. Finally, the estimated partner tax refund amount was calculated without reference to Mr. Daugherty's other personal tax attributes for the 2008 tax year or prior years, and partners were advised that each person's own actual refund may vary based on their own effective tax rate.

21. While the 2009 Statement vaguely noted that "[i]f actual refund deviates materially from estimate, other compensation will be fairly adjusted," partners like Mr.

[4] The calculation of the 2008 Refund was therefore 2005-2007 allocated income of $3,552,890 x 27% or $959,280. Then the $959,280 was divided by 35% for a "pre-tax" calculated amount of $1,475,816.

Daugherty were told that the tax refund amounts were "not guaranteed," and that if refund amounts were different, Highland would merely "consider what action to take on a case-by case basis, considering several factors."

22. As reflected on his K-1 for tax year 2008 (the "2008 K-1"), Mr. Daugherty was allocated ordinary business losses by Highland in excess of $4 million, along with other losses that well-exceeded the allocated income from 2005-2007.[5] As shown in the 2008 K-1, Mr. Daugherty received what he was promised in the 2009 Statement, if not more.

23. After the obligations to Mr. Daugherty under the 2009 Statement had been satisfied, the IRS began an audit of Highland's 2008 tax return (the "2008 Audit").[6] On information and belief, the 2008 Audit is not yet fully resolved.

24. On October 31, 2011, Mr. Daugherty terminated his employment with Highland. Pursuant to the express conditions of his Employment Agreement, Mr. Daugherty acknowledged and agreed that the Debtor would "have no further liability or obligation to [Mr. Daugherty] under [the Employment Agreement] or in connection with his/her employment of termination."

IV. The Alleged Basis for the Claim

25. In the Claim, Mr. Daugherty demands the Debtor pay him $2,650,353, which consists of the full amount of the 2008 Refund ($1,475,816) plus interest of $1,174,537.[7] Mr.

[5] In the simplest terms, to determine whether an individual owes additional taxes or is entitled to a refund, income or losses are multiplied by the applicable tax rate. As an example, in a vacuum, $4 million of taxable losses allocated to an individual in the 27% bracket would result in $1.1 million of benefit in terms of reduction to their taxes owed ($4 million x 27% = $1.1 million). Likewise, $1 million of adjusted gross income resulting from W-2 wage income for an individual would result in $270,000 of tax liability for an individual whose effective tax rate is 27%, all else equal.

[6] Strand Advisors, Inc. ("Strand"), is the Debtor's "tax matters partner" for purposes of defending the 2008 Audit. Control of Strand reverted to James Dondero—the Debtor's ousted founder—in 2021, and the Debtor has no role in the 2008 Audit or visibility into its current status or how it is being conducted. On information and belief, the 2008 Audit has not been resolved and is heading to court with a resolution not expected until approximately 2029.

[7] Mr. Daugherty has provided no statutory or other justification for his claim for interest nor has he provided a proposed interest rate.

Daugherty's theory seems to be that if, upon the conclusion of the 2008 Audit, he is required to reverse the tax loss he received as a limited partner, the Debtor must reimburse him for the entirety of the 2008 Refund with interest. In other words, Mr. Daugherty reads a continuing obligation into the 2009 Statement to indemnify him for personal income taxes he may owe, if any, as a result of the 2008 Audit.

26. However, and as set forth above, there is no such obligation in the 2009 Statement. Mr. Daugherty has no claim.

27. But even if Mr. Daugherty did have a claim (he does not), it would be unliquidated and contingent and subordinated as it arises solely from his Partnership Interests.

FIRST CLAIM FOR RELIEF

(Disallowance under Bankruptcy Code 11 U.S.C. § 502(a))

28. Highland repeats and re-alleges as if set forth herein the foregoing factual allegations.

29. Under 11 U.S.C. § 502(a) a "claim ..., proof of which is filed under section 501 [of the Bankruptcy Code], is deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a).

30. The ultimate burden of proof for a claim always lies with the claimant. *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep't of Rev.*, 530 U.S. 15 (2000)).

31. Mr. Daugherty received and has benefited for the past 16 years from the 2008 Refund, *i.e.*, the 2008 losses allocated to Mr. Daugherty as a Highland partner. The benefit he received from the IRS (either as a tax refund or liability reduced through offsetting of income) did not materially deviate from, and may have exceeded, the basis for the estimated 2008 Refund set forth in the 2009 Statement.

32. Accordingly, the Debtor satisfied its obligations (to the extent it even had any) under the 2009 Statement in full, and no additional, future obligations exist under the 2009 Statement. Because the Debtor has satisfied its obligations, Claim 205 should be disallowed in its entirety.

33. Moreover, even if the tax benefits he received related to tax year 2008 materially deviated from the 2009 Statement, Mr. Daugherty would not be able to recover from the Debtor based on the vague statement in the 2009 Statement that lacks the definiteness required to form a contractual obligation.

SECOND CLAIM FOR RELIEF

(Estimation under Bankruptcy Code 11 U.S.C. § 502(c))

34. Highland repeats and re-alleges as if set forth herein the foregoing factual allegations.

35. As set forth above, Mr. Daugherty has no Claim; however, to the extent the Court believes he has one, it is unliquidated and contingent on the final outcome of the 2008 Audit, including the magnitude of any adjustments. If the 2008 Audit is successfully defended, Mr. Daugherty will have no claim.

36. Under 11 U.S.C. § 502(c) "[t]here shall be estimated for purposes of allowance … (1) any contingent or unliquidated claim, the fixing or liquidation of which … would unduly delay the administration of the case …."

37. The Plan was confirmed in February of 2021 and has been effective since August of 2021. Mr. Daugherty's Claim is the last unresolved claim[8] against the estate.

38. It is currently unknown when, if, or how the 2008 Audit will be resolved.

[8] The Equity Interests in subordinated Class 10 and further subordinated Class 11 have not been allowed under the terms of the Plan.

39. Accordingly, the Debtor requests that this Court estimate the Claim—after taking into account the likelihood and degree to which the 2008 Audit will be successful or unsuccessful—under 11 U.S.C. § 502(c) for purposes of allowance and distribution.

THIRD CLAIM FOR RELIEF

(Subordination under Bankruptcy Code 11 U.S.C. § 510(b))

40. Highland repeats and re-alleges as if set forth herein the foregoing factual allegations.

41. Under the Bankruptcy Code,

> a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor, for damages arising from the purchase or sale of such a security, or for reimbursement or contribution allowed under section 502 on account of such a claim, shall be subordinated to all claims or interests that are senior to or equal the claim or interest represented by such security ….

11 U.S.C. § 510(b). Section 510(b) requires the subordination of claims arising from the purchase of the equity itself and all claims arising thereafter as incidents of ownership. *In re SeaQuest Diving, LP*, 579 F.3d 411, 421 (5th Cir. 2009).

42. Section 510(b) applies to the ownership of limited partnership interests. *Templeton v. O'Cheskey (In re Am. Hous. Found.)*, 785 F.3d 143, 154 (5th Cir. 2015).

43. Mr. Daugherty owned the Partnership Interests, and his Claim is contingent on the IRS clawing back the 2008 Refund he received on account of those Partnership Interests through the 2008 Audit.

44. But for the Partnership Interests, Mr. Daugherty would not have been entitled to the 2008 Refund nor would Mr. Daugherty have any potential liability to the IRS from the 2008 Audit. A nexus or causal relationship exists between Claim 205 and the "purchase" of the Partnership Interests.

45. Accordingly, judgment should issue declaring that the Claim—to the extent it is not disallowed in full—is subordinated pursuant to 11 U.S.C. § 510(b) and shall, subject to such other defenses or objections as may exist with respect to the Claim, have the same rank and priority as Class 11 under the Plan.

PRAYER

WHEREFORE, Highland prays for judgment as follows:

1. For the disallowance of the Claim in its entirety;

2. For estimation for the Claim for purposes of allowance and distribution;

3. For subordination of the Claim;

4. For damages and costs of suit, including attorneys' fees, incurred in connection herewith; and

5. For such other and further relief as the Court deems just and proper.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Dated: May 2, 2025.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

EXHIBIT A

PAT DAUGHERTY

Date of Hire: 4/3/1998

Comprehensive Compensation and Benefits Statement

February 27, 2009

EARNINGS AND AWARDS

2008 Base Salary, as of 12/31/08	$ [redacted]0
2009 Base Salary, effective March 1, 2009 : $ [redacted]0	
2008 Tax Refund	$ 1,475,816

Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

Loan Forgiven in 2009 as part of bonus:

2008 Other Awards
- 401K Match
- Defined Benefit

2008 Deferred Compensation
- Retention Award

[redacted]

Highland's Hedge Funds and Private Equity funds, for a variety of reasons, largely preclude redemptions and Highland Capital Management, L.P. may or may not be in a position to provide a cash equivalent upon triggering of any employee specific monetization. Therefore for this deferred compensation award and any previous awards of Option IT and STIP, Employee agrees to accept payment in kind settlement of any monetization if necessary. _____ (*Please Initial*)

2008 Total Earnings and Awards	**$ [redacted]**

HIGHLAND PAID BENEFITS

Medical
Dental
Basic and Dependent Life Insurance/AD&D
Short Term Disability and Long Term Disability
Executive LTD
Daily Catered Lunches
Blackberry
Parking

[redacted]

2008 Estimated Total Value of Highland Paid Benefits

TOTAL COMPENSATION PACKAGE $ [redacted]

Waiver and Release Payments in 2008	$ [redacted]0

ACCEPTED AND AGREED:

_____ _____

Patrick Daugherty **Date**

B1040 (FORM 1040) (12/24)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	**ADVERSARY PROCEEDING NUMBER** (Court Use Only)

PLAINTIFFS	**DEFENDANTS**
Highland Capital Management, L.P.	Patrick Hagaman Daugherty
ATTORNEYS (Firm Name, Address, and Telephone No.) Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067, Tel.: (310) 277-6910; and Hayward PLLC, 10501 N. Central Expressway, Suite 106, Dallas, TX 75231, Tel.: (972) 755-7100	**ATTORNEYS** (If Known)
PARTY (Check One Box Only) ☑ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☐ Creditor ☐ Other ☐ Trustee	**PARTY** (Check One Box Only) ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☑ Creditor ☐ Other ☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

Disallowance or estimation of claim under 11 U.S.C. 502 or subordination under 11 U.S.C. 510(b)

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(a) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☐ 14-Recovery of money/property - other

FRBP 7001(b) – Validity, Priority or Extent of Lien
- ☐ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(c) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(d) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(e) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(f) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(f) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(g) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(h) Subordination of Claim or Interest
- ☑ 81-Subordination of claim or interest

FRBP 7001(i) Declaratory Judgment
- ☐ 91-Declaratory judgment

FRBP 7001(j) Determination of Removed Action
- ☐ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☐ Check if this case involves a substantive issue of state law	☐ Check if this is asserted to be a class action under FRCP 23
☐ Check if a jury trial is demanded in complaint	Demand $

Other Relief Sought

Disallowance or estimation of claim under 11 U.S.C. 502

B1040 (FORM 1040) (12/24)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Highland Capital Management, L.P.	BANKRUPTCY CASE NO. 19-34054-sgj11	
DISTRICT IN WHICH CASE IS PENDING Northern District of Texas	DIVISION OFFICE Dallas	NAME OF JUDGE Stacey G. C. Jernigan
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE May 2, 2025	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Zachery Z. Annable	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

BTXN 117a (rev. 10/02)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P.	§	
	§	Case No.: 19−34054−sgj11
Debtor(s)	§	Chapter No.: 11
Highland Capital Management, L.P.	§	
Plaintiff(s)	§	Adversary No.: 25−03055−sgj
vs.	§	
Patrick Hagaman Daugherty	§	
Defendant(s)	§	

SUMMONS IN AN ADVERSARY PROCEEDING

To the above−named defendant:

You are hereby summoned and required to serve upon **Zachery Z. Annable**, Plaintiff's attorney (or if Plaintiff is not represented by counsel, upon Plaintiff), whose address is **Hayward PLLC**
10501 N. Central Expressway
Suite 106
Dallas, TX 75231 , either a motion or an answer to the complaint which is now served upon you. If you elect to respond first by motion, as you may pursuant to Fed. R. Bankr. P. 7012, that governs the time within which your answer must be served. Otherwise, you are required to serve your answer upon Plaintiff's attorney (or upon Plaintiff if Plaintiff is not represented by counsel) within 30 days of the date of issuance of this summons by the clerk (or by the following date prescribed by the court: N/A) except that the United States or an office or agency thereof shall serve an answer to the complaint within 35 days after the date of issuance of the summons.

{If this summons and complaint is served in a foreign country} Service of your answer must be made by the following date prescribed by the court N/A.

The motion or answer served by you must be filed with this court before service or within a reasonable time after service. **IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS SUMMONS, JUDGMENT BY DEFAULT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

DATED: 5/5/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Michael Edmond, Deputy Clerk

In Re: Highland Capital Management, L.P. v. Daugherty
Case No. 19−34054−sgj11 −11
Adv. No. 25−03055−sgj

SUMMONS SERVICE EXECUTED

I,_____

of**_____

certify:

If service was made by personal service, by residence service, or pursuant to state law, I further certify that I am, and all times during service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made;

That on the _____ day of _____,_____ I served a copy of the within summons, together with the complaint filed in this proceeding, on

the defendant in this proceeding, by *{describe here the mode of service}*

the said defendant at

I certify under penalty of perjury that the foregoing is true and correct.

Executed on _____ _____
(Date) *(Signature)*

**_____
State mailing address

BTXN 117n (rev. 02/2015)

A copy of this *Notice to Litigants* should be served on the defendant along with the Summons and Complaint.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

NOTICE TO LITIGANTS

You have been named as a defendant in an adversary proceeding, the outcome of which could affect your bankruptcy discharge. Even if you have already received a discharge, this is a serious matter that you should not ignore.

Individual litigants are entitled to appear without an attorney and represent themselves in the Bankruptcy Court. However, the rules can be quite technical and failure to comply with the rules can have severe consequences. Before deciding to appear on your own, you should consider consulting an attorney. If you were represented in your chapter 7 or 13 bankruptcy case by counsel, you should notify that attorney that you have been named as a defendant.

If you cannot afford an attorney, you may be eligible for free legal representation through Legal Aid of NorthWest Texas (LANWT) or the Dallas Volunteer Attorney Program (DVAP). To determine if you are eligible, you must apply for legal representation at a regularly−scheduled neighborhood legal clinic. In addition, if you were recently represented by an attorney in a chapter 7 or 13 case, you should notify that attorney immediately.

Upon application at a neighborhood legal clinic, you will be screened for eligibility based on your current income and the availability of any other assets to pay for legal services. If it is determined that you are eligible, an attorney may be found who will represent you without payment of attorneys' fees. Please note that, even if you are eligible, you may still be responsible for the payment of costs, such as court reporter fees, deposition transcripts, court transcripts, postage and copies.

On the last page of this notice, you will find a list of neighborhood legal clinics, their locations, and the times they meet. When you make contact with DVAP or LANWT, please have your copy of the summons and complaint with you, as well as a copy of any *Schedule of Assets and Liabilities and Statement of Financial Affairs* filed in your bankruptcy case.

Neighborhood Legal Clinics

EAST DALLAS
1st & 3rd Thursdays at 5:00 pm
Grace United Methodist Church
4105 Junius at Haskell
Dallas, TX 75246

SOUTH DALLAS
1st, 2nd and 4th Tuesdays at 5:00 pm
Martin Luther King, Jr. Center
Core Services Building,
2922 Martin Luther King Blvd.,
Room 122
Dallas, Texas 75215

FRIENDSHIP WEST BAPTIST CHURCH
3rd Wednesday at 5:30 pm
2020 West Wheatland Road
Dallas, Texas 75232

TRIANGLE NEIGHBORHOOD
3rd Tuesdays at 5:00 pm
(excluding summer)
St. Phillip.s Community Center
1600 Pennsylvania Avenue
Dallas, Texas 75215

WEST DALLAS
2nd & 4th Thursdays at 5:00 pm
Wesley−Rankin
Community Center
3107 N. Winnetka
Dallas, Texas 75212

GARLAND
3rd Thursday at 5:00 pm
(excluding December)
Salvation Army
Downtown Garland
457 W. Avenue D
Garland, Texas 75040

FORT WORTH
3rd Tuesday at 5:00 pm
(excluding December)
Legal Aid of NorthWest Texas
600 E. Weatherford St
Fort Worth, TX 76102

PLEASE TAKE NOTE

Clinics may be cancelled because of bad weather, federal holidays, or during elections. To confirm that a clinic will occur as scheduled, contact (214) 243−2247 for Dallas or Garland clinics, or (800) 955−3959 for Fort Worth clinics.

Please bring proof of income and residency, as well as a copy of the *Schedule of Assets and Liabilities and Statement of Financial Affairs* filed in your bankruptcy case and the summons and complaint. If you have been sued, please bring your legal documents.

BTXN 090 (rev. 12/09)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re:	§	
Highland Capital Management, L.P.	§	
	§	Case No.: 19−34054−sgj11
Debtor(s)	§	Chapter No.: 11
Highland Capital Management, L.P.	§	
Plaintiff(s)	§	Adversary No.: 25−03055−sgj
vs.	§	
Patrick Hagaman Daugherty	§	
Defendant(s)	§	

ORDER REGARDING ADVERSARY PROCEEDINGS TRIAL SETTING AND ALTERNATIVE SCHEDULING ORDER

An adversary complaint is set for trial routinely at the time of its filing. Special settings or pretrial conferences may be scheduled by contacting the appropriate Courtroom Deputy.

TRIAL is set before the **Honorable Stacey G Jernigan** at **1100 Commerce Street, 14th Floor, Courtroom #1, Dallas, Texas 75242** the week of **October 20, 2025**. Docket call for this trial will be held on **October 6, 2025** at **01:30 pm** at **1100 Commerce Street, 14th Floor, Courtroom #1, Dallas, Texas 75242**. A pretrial conference shall be scheduled by the parties at least seven (7) calendar days prior to trial docket call in a complex adversary proceeding if the parties anticipate that trial will exceed one day or if there are preliminary matters that should be addressed by the Court prior to the commencement of trial.

PART I: INSTRUCTIONS

1. Plaintiff is responsible for ensuring that proper service is provided to each defendant. The Clerk shall issue one original summons, which shall be conformed by the plaintiff for service on multiple defendants. Federal Bankruptcy Rule 7004(e) requires you to serve the fully completed **SUMMONS** form and a copy of the **COMPLAINT** on each defendant within seven (7) days of issuance. In addition, the Court also directs that this **ORDER *be served with the* SUMMONS and COMPLAINT.**

2. Plaintiff shall file a **RETURN** on the **SUMMONS** with a **CERTIFICATE OF SERVICE** that provides the name and address of each party served and the manner of service.

3. If a trial setting is passed for settlement at trial docket call and no written request is filed to retain the case on the Court's docket, an automatic Dismissal Without Prejudice shall be entered on or after four (4) weeks. The Court's Trial Calendar is available on the court's web site at www.txnb.uscourts.gov.

PART II: GENERAL PROVISIONS GOVERNING DISCOVERY

1. Unless otherwise ordered by the Court, the disclosures required by Federal Bankruptcy Rule 7026(a) shall be made within fourteen (14) days of the entry of a scheduling order, including the Alternative Scheduling Order contained in Part III below (which shall become effective on the forty−sixth day following the entry of this Order.

2. Unless the parties agree or the Court orders otherwise, Federal Bankruptcy Rule 7026(f) requires that parties shall confer to consider the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures required by Federal Bankruptcy Rule 7026(a)(1), to develop a proposed discovery plan, and to submit a proposed scheduling order. The parties shall confer with each other regarding these matters within thirty (30) days of the service of the Summons unless the Court orders otherwise.

3. During such conference, the parties may agree to waive the requirement of submitting their own proposed scheduling order and may follow the terms and deadlines contained in the Alternative Scheduling Order set forth in Part III below (the "Alternative Scheduling Order"). If the parties do not submit a proposed scheduling order or do not schedule a status conference with the Court to discuss the provisions and deadlines of a scheduling order within forty−five days of the filing of this adversary proceeding, then the parties are deemed to have consented to the terms of the Alternative Scheduling Order.

PART III: ALTERNATIVE SCHEDULING ORDER

The Court directs compliance with the following schedule:

1. Discovery must be completed forty−five (45) days prior to Docket Call. The names and addresses of experts must be exchanged sixty (60) days prior to Docket Call.

2. A Joint Pretrial Order in compliance with Local District Court Rule 16.4 shall be filed, served, and uploaded for Court entry seven (7) days prior to Docket Call. All counsel (or a pro se party) are responsible for preparing the Joint Pretrial Order, which shall contain the following: (a) a summary of the claims and defenses of each party; (b) a statement of stipulated facts; (c) a list of the contested issues of fact; (d) a list of contested issues of law; (e) an estimate of the length of trial; (f) a list of additional matters which would aid in the disposition of the case; and (g) the signature of each attorney (or pro se party).

3. Each exhibit shall be marked with an exhibit label. Except for impeachment documents, all exhibits, along with a list of witnesses to be called, shall be exchanged with opposing counsel (or pro se party) fourteen (14) days prior to Docket Call. Each party shall also file a list of exhibits and witnesses fourteen (14) days prior to Docket Call. All exhibits not objected to in writing by Docket Call shall be admitted into evidence at trial without further proof, except for objections to relevance. Written objections to exhibits will be taken up either at the beginning or during the course of the actual trial or at any pretrial conference.

4. Written Proposed Findings of Fact and Conclusions of Law shall be filed seven (7) days prior to Docket Call. Trial briefs shall be filed addressing contested issues of law seven (7) days prior to Docket Call.

5. Unless otherwise directed by the Presiding Judge, all dispositive motions must be heard no later than fourteen (14) days prior to Docket Call. Accordingly, all dispositive motions must be filed no later than forty−five (45) days prior to Docket Call, unless the Court modifies this deadline.

6. All parties and counsel must certify to full compliance with this Order at Docket Call. If a resetting is allowed by the Court, the plaintiff or plaintiff's attorney shall notify all other parties and shall file with the Clerk a certificate of service indicating the manner, date, and to whom notice was given.

7. If the case is reset, all the deadlines in Part III nos. 1 through 5 will be shifted to the newly scheduled Docket Call date in the absence of a contrary Court order.

8. Sanctions may be imposed for failure to comply with this Order.

DATED: 5/5/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Michael Edmond, Deputy Clerk

BTXN 117a (rev. 10/02)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P.	§	
	§	Case No.: 19−34054−sgj11
Debtor(s)	§	Chapter No.: 11
Highland Capital Management, L.P.	§	
Plaintiff(s)	§	Adversary No.: 25−03055−sgj
vs.	§	
Patrick Hagaman Daugherty	§	
Defendant(s)	§	

SUMMONS IN AN ADVERSARY PROCEEDING

To the above−named defendant:

You are hereby summoned and required to serve upon **Zachery Z. Annable**, Plaintiff's attorney (or if Plaintiff is not represented by counsel, upon Plaintiff), whose address is **Hayward PLLC**
10501 N. Central Expressway
Suite 106
Dallas, TX 75231 , either a motion or an answer to the complaint which is now served upon you. If you elect to respond first by motion, as you may pursuant to Fed. R. Bankr. P. 7012, that governs the time within which your answer must be served. Otherwise, you are required to serve your answer upon Plaintiff's attorney (or upon Plaintiff if Plaintiff is not represented by counsel) within 30 days of the date of issuance of this summons by the clerk (or by the following date prescribed by the court: N/A) except that the United States or an office or agency thereof shall serve an answer to the complaint within 35 days after the date of issuance of the summons.

{If this summons and complaint is served in a foreign country} Service of your answer must be made by the following date prescribed by the court N/A.

The motion or answer served by you must be filed with this court before service or within a reasonable time after service. **IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS SUMMONS, JUDGMENT BY DEFAULT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

DATED: 5/5/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Michael Edmond, Deputy Clerk

In Re: Highland Capital Management, L.P. v. Daugherty
Case No. 19−34054−sgj11 −11
Adv. No. 25−03055−sgj

SUMMONS SERVICE EXECUTED

I, Zachery Z. Annable

of** Hayward PLLC

certify:

If service was made by personal service, by residence service, or pursuant to state law, I further certify that I am, and all times during service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made;

That on the 5th day of May, 2025 I served a copy of the within summons, together with the complaint filed in this proceeding, xx

and the Court's Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order [Adv. Dkt. No. 3] on Patrick Hagaman Daugherty

the defendant in this proceeding, by *{describe here the mode of service}*

e-mail sent to Mr. Drew York, legal counsel for

the said defendant at

dyork@grayreed.com. Via e-mail dated May 5, 2025 from Mr. York to the undersigned, Mr. York agreed to accept service of the complaint and summons on behalf of his client, Patrick Hagaman Daugherty.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on May 6, 2025 _____
(Date) *(Signature)*

** 10501 N. Central Expressway, Suite 106, Dallas, Texas 75231
State mailing address

A copy of this *Notice to Litigants* should be served on the defendant along with the Summons and Complaint.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

NOTICE TO LITIGANTS

You have been named as a defendant in an adversary proceeding, the outcome of which could affect your bankruptcy discharge. Even if you have already received a discharge, this is a serious matter that you should not ignore.

Individual litigants are entitled to appear without an attorney and represent themselves in the Bankruptcy Court. However, the rules can be quite technical and failure to comply with the rules can have severe consequences. Before deciding to appear on your own, you should consider consulting an attorney. If you were represented in your chapter 7 or 13 bankruptcy case by counsel, you should notify that attorney that you have been named as a defendant.

If you cannot afford an attorney, you may be eligible for free legal representation through Legal Aid of NorthWest Texas (LANWT) or the Dallas Volunteer Attorney Program (DVAP). To determine if you are eligible, you must apply for legal representation at a regularly−scheduled neighborhood legal clinic. In addition, if you were recently represented by an attorney in a chapter 7 or 13 case, you should notify that attorney immediately.

Upon application at a neighborhood legal clinic, you will be screened for eligibility based on your current income and the availability of any other assets to pay for legal services. If it is determined that you are eligible, an attorney may be found who will represent you without payment of attorneys' fees. Please note that, even if you are eligible, you may still be responsible for the payment of costs, such as court reporter fees, deposition transcripts, court transcripts, postage and copies.

On the last page of this notice, you will find a list of neighborhood legal clinics, their locations, and the times they meet. When you make contact with DVAP or LANWT, please have your copy of the summons and complaint with you, as well as a copy of any *Schedule of Assets and Liabilities and Statement of Financial Affairs* filed in your bankruptcy case.

Neighborhood Legal Clinics

EAST DALLAS
1st & 3rd Thursdays at 5:00 pm
Grace United Methodist Church
4105 Junius at Haskell
Dallas, TX 75246

SOUTH DALLAS
1st, 2nd and 4th Tuesdays at 5:00 pm
Martin Luther King, Jr. Center
Core Services Building,
2922 Martin Luther King Blvd.,
Room 122
Dallas, Texas 75215

FRIENDSHIP WEST BAPTIST CHURCH
3rd Wednesday at 5:30 pm
2020 West Wheatland Road
Dallas, Texas 75232

TRIANGLE NEIGHBORHOOD
3rd Tuesdays at 5:00 pm
(excluding summer)
St. Phillip.s Community Center
1600 Pennsylvania Avenue
Dallas, Texas 75215

WEST DALLAS
2nd & 4th Thursdays at 5:00 pm
Wesley−Rankin
Community Center
3107 N. Winnetka
Dallas, Texas 75212

GARLAND
3rd Thursday at 5:00 pm
(excluding December)
Salvation Army
Downtown Garland
457 W. Avenue D
Garland, Texas 75040

FORT WORTH
3rd Tuesday at 5:00 pm
(excluding December)
Legal Aid of NorthWest Texas
600 E. Weatherford St
Fort Worth, TX 76102

PLEASE TAKE NOTE

Clinics may be cancelled because of bad weather, federal holidays, or during elections. To confirm that a clinic will occur as scheduled, contact (214) 243−2247 for Dallas or Garland clinics, or (800) 955−3959 for Fort Worth clinics.

Please bring proof of income and residency, as well as a copy of the *Schedule of Assets and Liabilities and Statement of Financial Affairs* filed in your bankruptcy case and the summons and complaint. If you have been sued, please bring your legal documents.

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, TX 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

PATRICK DAUGHERTY'S
MOTION TO DISMISS

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Defendant Patrick Daugherty ("Daugherty") moves to dismiss this action pursuant to Federal Rule of Civil Procedure 12(b)(6) (incorporated herein by Fed. R. Bankr. P. 7012(b)) for failure to state a claim upon which relief may be granted. Further, the Court should deny leave for further amendments of the Complaint, as no amendment can cure what is otherwise a fatal defect: that the IRS Audit Dispute remains pending and is not yet final.

I. SUMMARY

1. Plaintiff filed its *Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim no. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1] (the "Complaint") in the face of a Settlement Agreement approved by this Court on March 8, 2022,[2] that mandates a stay of any litigation by and between Plaintiff and Daugherty until the Internal Revenue Service ("IRS") makes a final determination regarding an IRS Audit Dispute material to Daugherty's Reserved Claim under the Settlement Agreement.[3] As Plaintiff concedes in its briefing, that IRS Audit Dispute remains unresolved.[4] Accordingly, Plaintiff's claim is premature, subject to the

[2] *See* Doc. No. 1 at ¶ 14 (citing Main Case Docket No. 3088, which itself incorporates and relies upon the "Settlement Agreement" at Main Case Docket No. 3089, Ex. 1). When reviewing a 12(b)(6) motion to dismiss, the Court "must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on 12(b)(6) motions to dismiss, in particular documents incorporated into the complaint by reference, and matters of which a court may take judicial notice." *Funk v. Stryker Corp.*, 631 F.3d 777, 783 (5th Cir. 2011)(quoting *Tellabs Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308 (2007)). In doing so, the Court may take judicial notice of its own records. *E.g., Biliouris as next friend of Biliouris v. Patman*, 751 Fed. App'x 603, 604 (5th Cir. 2019)("court may take judicial notice of the record in prior related proceedings"); *ITT Rayonier Inc. v. U.S.*, 651 F.2d 343, 345 n.2 (5th Cir. 1981)("court may… take judicial notice of its own records…"). Plaintiff incorporated the Settlement Agreement by reference in its Complaint. Daugherty also respectfully requests the Court also take judicial notice of the Settlement Agreement at Main Case Docket No. 3089 as it considers this Motion to Dismiss.

[3] All capitalized terms used but not herein defined shall have the meanings ascribed to them in the Settlement Agreement at Main Case Docket No. 3089.

[4] Indeed, Plaintiff concedes as much stating "[o]n information and belief, the 2008 Audit has not been resolved and is heading to court with a resolution not expected until approximately 2029." Docket No. 1 at ¶ 23, n. 6.

Settlement Agreement's mandatory stay, and should be dismissed for failure to state a claim upon which relief may be granted.

II. BACKGROUND

2. On March 8, 2022, Daugherty and Plaintiff entered a Settlement Agreement to resolve, in part, his claims against Highland Capital Management, L.P. ("Debtor" or "Plaintiff"). Main Case Docket No. 3088, 3089.

3. Under that Settlement Agreement, Daugherty retained a Reserved Claim relating to an audit/dispute between the Debtor and the IRS concerning the Debtor's 2008 tax return.[5] Main Case Docket No. 3089 at Ex. 1, § 9. Critically, under the terms of the Settlement Agreement, "[a]ny litigation by and between the [Debtor] and Daugherty concerning the validity and amount of the Reserved Claim *shall be stayed* until the IRS makes a final determination with respect to the IRS Audit Dispute." *Id.* (emphasis added).

4. Despite the Settlement Agreement's mandatory stay language, Plaintiff filed its Complaint asserting three claims for relief: (1) disallowance under section 502(a) of the Bankruptcy Code; (2) estimation under section 502(c) of the Bankruptcy Code; and (3) subordination under section 510(b) of the Bankruptcy Code. *See* Docket No. 1 at ¶¶ 28-45. Each of those claims seek a determination from this Court on the "validity and amount" of Daugherty's Reserved Claim relating to the IRS Audit Dispute. Yet, Plaintiff concedes that resolution of the

[5] Although Daugherty acknowledges that for purposes of ruling on a motion to dismiss under Fed. R. Civ. P. 12(b)(6) the Court must accept as true the allegations in the Complaint, Daugherty disputes Plaintiff's characterization of the Reserved Claim. The Reserved Claim concerns a compensation and benefits contract, between Plaintiff and Daugherty relating to Daugherty's cash bonus, that was presented pursuant to a tax refund scheme developed by Plaintiff during the financial crisis in 2008 and 2009. That tax refund scheme was later challenged by the IRS. Indeed, despite Plaintiff's passing attempt to downplay the document's language as vague, the "validity and amount" issues that are the gravamen of Daugherty's Reserved Claim (which is subject to the mandatory stay) relate to whether Plaintiff's refund "deviat[ed] materially from [Debtor's] estimate" such that "other compensation [to Daugherty should have been] fairly adjusted" as promised. Docket No. 1-1. Moreover, Plaintiff's Fifth Amended Plan of Reorganization, which was confirmed by the Court, provided for "Disputed Claims" and required the Claimant Trustee under the Plan to maintain a reserve account for such claims.

IRS Audit Dispute is still pending, alleging that "Highland's 2008 tax return *is currently subject to an IRS audit*." *Id.* at ¶ 3 (emphasis added). Plaintiff further concedes "the 2008 Audit has not been resolved" and "[i]t is unclear when, how, or if the 2008 Audit will be finally resolved." *Id.* at ¶¶ 4, 23 n. 6; *see also id.* at ¶ 38. Finally, Plaintiff acknowledges Daugherty's Reserved Claim is "contingent on the final outcome of the 2008 Audit." *Id.* at ¶ 35.

5. As such, Plaintiff's claims are premature, run afoul of the Settlement Agreement's mandatory stay, and should be dismissed pursuant Fed. R. Civ. P. 12(b)(6).

III. LEGAL STANDARD

6. To survive a motion to dismiss under Rule 12(b)(6), Plaintiff must assert a theory that could entitle it to relief. Fed. R. Civ. P. 12(b)(6). In support of that theory, a complaint must allege "sufficient factual matter" that, taken as true, "state[s] a claim for relief [that] is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Plaintiff must establish more than a "sheer possibility that a defendant has acted unlawfully." *Id.* This Court need not accept as true legal conclusions or conclusory factual allegations. *Id.* "[W]hen the allegations in a complaint, however true, could not raise a claim of entitlement to relief, this basic deficiency should be exposed at the point of minimum expenditure of time and money by the parties and the court." *U.S. ex rel. Bennett v. Medtronic, Inc.*, 747 F. Supp. 2d 745, 761 (S.D. Tex. 2010) (quoting *Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007)) (cleaned up).

IV. ARGUMENT

7. The final determination of the IRS Audit Dispute is a dispositive condition precedent to Plaintiff's right to commence and maintain any litigation concerning the amount or validity of Daugherty's Reserved Claim. The Complaint does not allege that a final determination has occurred, nor can it. In fact, the Complaint alleges the exact opposite: that the IRS Audit Dispute is *ongoing*. For this reason alone, the Complaint should be dismissed.

8. To the extent Plaintiff makes any claim of finality—despite not alleging it in the Complaint—that claim is the result of a fundamental misunderstanding of the administrative procedure at the IRS for auditing, assessing, and collecting tax amounts that are allegedly due following a partnership audit. There is no practical or economic effect of the IRS's *proposed* adjustment at the end of an audit beyond just that—*proposing* changes to partnership items subject to challenge by the partners, the courts, and subsequent limitations on assessment and collection.

9. Partnership audit procedures, in this case, are governed by the standards established in the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"). *See* 26 U.S.C. §§ 6221-6234, adopted by TEFRA, Pub. L. No. 97-248, § 402(a). TEFRA governs partnership audits for partnership years beginning after September 3, 1982, and applies generally to partnership tax years from 1983 through 2017 and subsequent tax years are governed by different rules.[6] Determinations at the partnership level are binding upon all direct and indirect partners of the partnership and, in the absence of a partnership-level proceeding, the IRS is bound by the partnership items as reported on the partnership return. *Sente Inv. Club P'Ship of Utah v. Commissioner*, 95 T.C. 243, 247-250 (1990); *Roberts v. Commissioner,* 94 T.C. 853, 862 (1990). The tax matters partner ("TMP"),[7] plays an important role in the audit and in any resulting administrative proceedings,[8] conducts judicial proceedings,[9] and is obligated to keep the partners informed.[10] The IRS has a duty to issue

[6] The Bipartisan Budget Act of 2015 repealed the TEFRA procedures entirely for partnership tax years beginning after December 31, 2017. Bipartisan Budget Act of 2015, Pub. L. No. 114-74§§ 1101(g)(1), 1101(g)(4). All references to Internal Revenue Code (IRC) provisions are TEFRA versions of those IRC provisions enacted on September 3, 1982.

[7] 26 U.S.C. § 6231(a)(7); Treas. Reg. § 301.6231(a)(7)-1.

[8] 26 U.S.C. § 6224(c)(3); Treas. Reg. § 301.6224(c)-1.

[9] 26 U.S.C. § 6226.

[10] 26 U.S.C. § 6223(g); Treas. Reg. § 301.6223(g)-1.

certain notices,[11] and partners have a right to participate in the administrative proceedings unless they waive or fail to exercise their rights.[12]

10. The IRS commences an audit by giving notice to all partners and all partners may participate in the audit, but the primary representative is the Tax Matters Partner ("TMP"). 26 U.S.C. § 6223(a); 26 U.S.C. § 6231(a)(7); Treas. Reg. § 301.6231(a)(7)-1(b)(1). A partnership audit is concluded by the IRS issuing a no-change finding or a Final Partnership Administrative Adjustment ("FPAA"). 26 U.S.C. § 6223(a)(2); Internal Revenue Manual § 8.19.12.3. The IRS is required to mail an FPAA to the TMP, all notice partners, and representatives of notice groups. The mailing of the FPAA to the TMP starts the clock on various procedures that are contingent on issuance of an FPAA. *See e.g., Triangle Investors Ltd. Partners v. Comm'r*, 95 TC 610 (1990). The mailing to the remaining partners must occur within 60 days after the mailing to the TMP. *See Byrd Invs. v. CIR*, 89 TC 1 (1988), aff'd, 853 F2d 928 (11th Cir. 1988) (procedures for mailing to partners other than TMP satisfy due process).

11. The IRS cannot assess tax resulting from adjustments to partnership items until the notice of an FPAA has been mailed, at least 150 days have elapsed after the mailing *and* the FPAA has not been contested. 26 U.S.C. § 6225(a)(1). If the IRS violates the assessment restriction, the assessment can be enjoined. 26 U.S.C. § 6225(b). If a Tax Court petition is filed within 150 days after the FPAA notice, no deficiency attributable to a partnership item may be assessed until the court's decision on the matter becomes final. 26 U.S.C. § 6225(a)(1). Partners who receive an FPAA are allowed to file a petition contesting the FPAA in the Tax Court, a federal district court, or the Court of Federal Claims. 26 U.S.C. § 6226; Internal Revenue Manual § 8.19.12.11.1.

[11] 26 U.S.C. § 6223(a)-(b); Treas. Reg. § 301.6223(b)-1, (e)-1, (e)-2.

[12] IRC § 6224(a), IRC § 6224(b); Treas. Reg. § 301.6224(a)-1, (b)-1.

12. Based on information and belief, Defendant expects that a challenge is most likely to occur in the U.S. Tax Court. In that instance, the Tax Court will employ the same reasoning applied in deficiency cases to a decision in a TEFRA proceeding. *See Cinema '84 v. Commissioner*, 122 T.C. 264 (2004). Any partner can appeal the decision, subject to the usual rules for appeals from the deciding court. 26 U.S.C. §§ 6226(g), 7485(b). Under TEFRA, there is only one appeal to one circuit court. *See* 26 U.S.C. § 7482(b)(1)(A); *Abatti v. Comm'r*, 86 T.C. 1319 (1986), *aff'd*, 859 F.2d 115 (9th Cir. 1988). If no notice of appeal is filed within the applicable period, the decision of the trial court becomes final and unappealable at the end of the appeal period. 26 U.S.C. § 7481(a)(1); *see also Benenson v. United States*, 385 F.2d 26 (2d Cir. 1967); *Richland Knox Mutual Ins. Co. v. Kallen*, 376 F.2d 360 (6th Cir. 1967).

13. If an appeal is filed, the decision becomes final after the appeal is resolved and the time to take any further appeal expires. Once the decision becomes final, the decision cannot be challenged without moving to vacate the court decision. *See* Tax Court Rule 162; *see also Tashjian v. Comm'r*, 320 Fed. App'x. 649 (9th Cir. 2009) (cannot contest partnership item decision in subsequent collection due process case for partner). The finality date is critical for determination of the statute of limitations and the IRS generally has at least one year after the date the decision becomes final to assess the partnership item adjustments. *See* 26 U.S.C. § 6229(d)(2).

14. Here, each and every one of Plaintiff's allegations is premised on speculating what the final outcome of the 2008 Audit will be. The FPAA, once one is issued, is subject to challenge and adjustment by the TMP and other partners and, if challenged, no assessment of any proposed adjustment can occur until a final decision is entered by the courts.. Even at the conclusion of all the court proceedings, which Plaintiff itself estimates will not occur until 2029,[13] the adjustments

[13] *Supra*, note 4.

may still never occur if the IRS does not follow the requirements for assessment within the given statute of limitations. In short, the issuance of an FPAA at this stage—assuming one has actually been issued—is meaningless beyond providing a clear understanding of the IRS position on certain tax return items, and is subject to challenge and potential change by the partners or the courts.

15. Therefore, Plaintiff has failed to allege any facts which give rise to plausible claims for relief against Daugherty. As a result, all claims against Daugherty should be dismissed without prejudice.

V. DISMISSAL SHOULD BE WITHOUT PREJUDICE, AND LEAVE TO AMEND SHOULD BE DENIED

16. Leave to amend is not automatic, but "is within the sound discretion of the district court." *United States ex rel. Doe v. Dow Chem. Co.*, 343 F.3d 325, 329 (5th Cir. 2003) (internal citations omitted). Courts typically afford leave to amend at least once, however, a plaintiff should be denied leave to amend if the court determines that the proposed change is frivolous or advances a claim or defense that is legally insufficient on its face. *U.S. ex rel. Bennett v. Medtronic, Inc.*, 747 F. Supp. 2d 745, 761 (S.D. Tex. 2010); *Ayers v. Johnson*, 247 Fed. Appx. 534, 535 (5th Cir. 2007).

17. As set forth above, Plaintiff's claim is premature and as a result cannot be corrected by an amended pleading. Accordingly, should Plaintiff seek leave to amend, such request would be futile and should be categorically denied.

VI. CONCLUSION

18. For the foregoing reasons, the Court should dismiss all claims against Daugherty because the Complaint does not satisfy the Rule 12(b)(6) pleading requirements as it fails to state a claim upon which relief may be granted. Additionally, the Court should deny leave to amend because any attempt to amend the Complaint at this time would be futile as the IRS Audit Dispute

remains pending and unresolved. Alternatively, the Court should stay this adversary proceeding until the Debtor's IRS Audit Dispute is fully and finally resolved.

Respectfully submitted this 4th day of June 2025.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 4th day of June 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
CA Bar No. 143717
jpomerantz@pszjlaw.com
John A. Morris
NY Bar No. 2405397
jmorris@pszjlaw.com
Gregory V. Demo
NY Bar No. 5371992
gdemo@pszjlaw.com
Hayley R. Winograd
NY Bar No. 5612569
hwinograd@pszjlaw.com
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWORD PLLC
Melissa S. Hayward
TX Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
TX Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, TX 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

By: /s/ *Andrew K. York*
Andrew K. York

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

ORDER GRANTING DEFENDANT
PATRICK DAUGHERTY'S MOTION TO DISMISS

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Upon the motion (the "**Motion**") of Patrick Daugherty, for the entry of an order (the "Order"): dismissing this adversary proceeding for failure to state a claim upon which relief may be granted pursuant to Fed. R. Civ. P. 12(b)(6) (as incorporated herein by Fed. R. Bankr. P. 7012(b)); and this Court having found that notice of the Motion and opportunity for a hearing on the Motion were appropriate, and no other notice need be provided; and this Court having reviewed the legal and factual bases set forth in the Motion; and this Court having determined that cause exists to **GRANT** the Motion. In light of the foregoing, it is hereby **ORDERED, ADJUDGED, AND DECREED THAT:**

1. This adversary proceeding is hereby dismissed without prejudice for failure to state a claim upon which relief may be granted pursuant Fed. R. Civ. P. 12(b)(6) (as incorporated herein by Fed. R. Bankr. P. 7012(b)).

2. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

3. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

###END OF ORDER###

Submitted by:

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adversary Proceeding No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

STIPULATION CONCERNING SCHEDULING ORDER

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

This stipulation (the "Stipulation") is made by and between Highland Capital Management, L.P., the reorganized debtor ("Highland") in the above-captioned chapter 11 case ("Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), and Patrick Hagaman Daugherty ("Mr. Daugherty", and together with Highland, the "Parties") by and through their respective undersigned counsel.

RECITALS

WHEREAS, on May 2, 2025, Highland filed its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1] (the "Complaint");

WHEREAS, on May 5, 2025, the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Court"), issued the *Summons in an Adversary Proceeding* [Docket No. 4] (the "Summons") related to the Complaint;

WHEREAS, on May 5, 2025, the Court entered its *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* [Docket No. 3] (the "Scheduling Order");

WHEREAS, on May 6, 2025, Highland filed its proof of service of the Complaint and the Summons on Mr. Daugherty [Docket No. 4];

WHEREAS, on June 4, 2025, Mr. Daugherty filed his *Motion to Dismiss* [Docket No. 5] (the "Motion"); and

WHEREAS, subject to the Court's approval, the Parties have conferred in good faith to establish a schedule for the adjudication of the Motion.

NOW, WHEREFORE, IT IS HEREBY JOINTLY STIPULATED AND AGREED as follows:

1. The Parties agree that, subject to the Court's approval, the schedule set forth herein satisfies Parts II(2) & (3) of the Scheduling Order.

2. Highland shall file its opposition to the Motion on or before July 18, 2025.

3. Mr. Daugherty shall file his reply on or before August 8, 2025.

4. In the event the Motion is denied by the Court, the Parties agree that, within ten (10) days of the entry of the Court's order denying the Motion (the "Scheduling Order Deadline"), they will submit for the Court's consideration an agreed scheduling order governing the Adversary Proceeding (the "AP Scheduling Order"). If the Parties are unable to agree on a form of AP Scheduling Order by the Scheduling Order Deadline, either Party may promptly request a status conference with the Court to discuss scheduling of trial and pre-trial matters in the Adversary Proceeding.

5. This Stipulation shall not be amended or modified except by written agreement between the Parties or upon entry of an order by the Court entered after reasonable notice and a showing of good cause.

[*Remainder of Page Intentionally Blank*]

Dated: June 16, 2025

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 18, 2025

United States Bankruptcy Judge

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adversary Proceeding No. 25-03055-sgj

ORDER APPROVING STIPULATION CONCERNING SCHEDULING ORDER

Upon consideration of the *Stipulation Concerning Scheduling Order* [Docket No. 6] (the "Stipulation")[2] by and between Highland Capital Management, L.P. ("Highland"), the reorganized

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

debtor in the above-captioned chapter 11 case (the "Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), and Patrick Hagaman Daugherty ("Mr. Daugherty," and together with Highland, the "Parties"), it is **HEREBY ORDERED THAT:**

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. The briefing schedule set forth in the Stipulation satisfies Parts II(2) & (3) of the Court's *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* [Docket No. 3].

3. Highland shall file its opposition to the *Motion to Dismiss* [Docket No. 5] (the "Motion") on or before July 18, 2025.

4. Mr. Daugherty shall file his reply on or before August 8, 2025.

5. In the event the Motion is denied by the Court, within ten (10) days of the entry of the Court's order denying the Motion (the "Scheduling Order Deadline"), the Parties will submit for the Court's consideration an agreed scheduling order governing the Adversary Proceeding (the "AP Scheduling Order"). If the Parties are unable to agree on a form of AP Scheduling Order by the Scheduling Order Deadline, either Party may promptly request a status conference with the Court to discuss scheduling of trial and pre-trial matters in the Adversary Proceeding.

6. The Stipulation shall not be amended or modified except by written agreement between the Parties or upon entry of an order by the Court entered after reasonable notice and a showing of good cause.

7. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Stipulation.

###END OF ORDER###

APPROVED AS TO FORM AND SUBSTANCE:

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adversary Proceeding No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

STIPULATION CONCERNING SCHEDULING ORDER

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

This stipulation (the "Stipulation") is made by and between Highland Capital Management, L.P., the reorganized debtor ("Highland") in the above-captioned chapter 11 case ("Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), and Patrick Hagaman Daugherty ("Mr. Daugherty", and together with Highland, the "Parties") by and through their respective undersigned counsel.

RECITALS

WHEREAS, on May 2, 2025, Highland filed its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1] (the "Complaint");

WHEREAS, on May 5, 2025, the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Court"), issued the *Summons in an Adversary Proceeding* [Docket No. 4] (the "Summons") related to the Complaint;

WHEREAS, on May 5, 2025, the Court entered its *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* [Docket No. 3] (the "Scheduling Order");

WHEREAS, on May 6, 2025, Highland filed its proof of service of the Complaint and the Summons on Mr. Daugherty [Docket No. 4];

WHEREAS, on June 4, 2025, Mr. Daugherty filed his *Motion to Dismiss* [Docket No. 5] (the "Motion"); and

WHEREAS, subject to the Court's approval, the Parties have conferred in good faith to establish a schedule for the adjudication of the Motion.

NOW, WHEREFORE, IT IS HEREBY JOINTLY STIPULATED AND AGREED as follows:

1. The Parties agree that, subject to the Court's approval, the schedule set forth herein satisfies Parts II(2) & (3) of the Scheduling Order.

2. Highland shall file its opposition to the Motion on or before July 18, 2025.

3. Mr. Daugherty shall file his reply on or before August 8, 2025.

4. In the event the Motion is denied by the Court, the Parties agree that, within ten (10) days of the entry of the Court's order denying the Motion (the "Scheduling Order Deadline"), they will submit for the Court's consideration an agreed scheduling order governing the Adversary Proceeding (the "AP Scheduling Order"). If the Parties are unable to agree on a form of AP Scheduling Order by the Scheduling Order Deadline, either Party may promptly request a status conference with the Court to discuss scheduling of trial and pre-trial matters in the Adversary Proceeding.

5. This Stipulation shall not be amended or modified except by written agreement between the Parties or upon entry of an order by the Court entered after reasonable notice and a showing of good cause.

[*Remainder of Page Intentionally Blank*]

Dated: June 16, 2025

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 18, 2025

United States Bankruptcy Judge

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adversary Proceeding No. 25-03055-sgj

ORDER APPROVING STIPULATION CONCERNING SCHEDULING ORDER

Upon consideration of the *Stipulation Concerning Scheduling Order* [Docket No. 6] (the "Stipulation")[2] by and between Highland Capital Management, L.P. ("Highland"), the reorganized

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

debtor in the above-captioned chapter 11 case (the "Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), and Patrick Hagaman Daugherty ("Mr. Daugherty," and together with Highland, the "Parties"), it is **HEREBY ORDERED THAT:**

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. The briefing schedule set forth in the Stipulation satisfies Parts II(2) & (3) of the Court's *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* [Docket No. 3].

3. Highland shall file its opposition to the *Motion to Dismiss* [Docket No. 5] (the "Motion") on or before July 18, 2025.

4. Mr. Daugherty shall file his reply on or before August 8, 2025.

5. In the event the Motion is denied by the Court, within ten (10) days of the entry of the Court's order denying the Motion (the "Scheduling Order Deadline"), the Parties will submit for the Court's consideration an agreed scheduling order governing the Adversary Proceeding (the "AP Scheduling Order"). If the Parties are unable to agree on a form of AP Scheduling Order by the Scheduling Order Deadline, either Party may promptly request a status conference with the Court to discuss scheduling of trial and pre-trial matters in the Adversary Proceeding.

6. The Stipulation shall not be amended or modified except by written agreement between the Parties or upon entry of an order by the Court entered after reasonable notice and a showing of good cause.

7. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Stipulation.

###END OF ORDER###

APPROVED AS TO FORM AND
SUBSTANCE:

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adversary Proceeding No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

STIPULATION CONCERNING SCHEDULING ORDER

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

This stipulation (the "Stipulation") is made by and between Highland Capital Management, L.P., the reorganized debtor ("Highland") in the above-captioned chapter 11 case ("Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), and Patrick Hagaman Daugherty ("Mr. Daugherty", and together with Highland, the "Parties") by and through their respective undersigned counsel.

RECITALS

WHEREAS, on May 2, 2025, Highland filed its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1] (the "Complaint");

WHEREAS, on May 5, 2025, the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Court"), issued the *Summons in an Adversary Proceeding* [Docket No. 4] (the "Summons") related to the Complaint;

WHEREAS, on May 5, 2025, the Court entered its *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* [Docket No. 3] (the "Scheduling Order");

WHEREAS, on May 6, 2025, Highland filed its proof of service of the Complaint and the Summons on Mr. Daugherty [Docket No. 4];

WHEREAS, on June 4, 2025, Mr. Daugherty filed his *Motion to Dismiss* [Docket No. 5] (the "Motion"); and

WHEREAS, subject to the Court's approval, the Parties have conferred in good faith to establish a schedule for the adjudication of the Motion.

NOW, WHEREFORE, IT IS HEREBY JOINTLY STIPULATED AND AGREED as follows:

1. The Parties agree that, subject to the Court's approval, the schedule set forth herein satisfies Parts II(2) & (3) of the Scheduling Order.

2. Highland shall file its opposition to the Motion on or before July 18, 2025.

3. Mr. Daugherty shall file his reply on or before August 8, 2025.

4. In the event the Motion is denied by the Court, the Parties agree that, within ten (10) days of the entry of the Court's order denying the Motion (the "Scheduling Order Deadline"), they will submit for the Court's consideration an agreed scheduling order governing the Adversary Proceeding (the "AP Scheduling Order"). If the Parties are unable to agree on a form of AP Scheduling Order by the Scheduling Order Deadline, either Party may promptly request a status conference with the Court to discuss scheduling of trial and pre-trial matters in the Adversary Proceeding.

5. This Stipulation shall not be amended or modified except by written agreement between the Parties or upon entry of an order by the Court entered after reasonable notice and a showing of good cause.

[*Remainder of Page Intentionally Blank*]

Dated: June 16, 2025

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-sgj

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Jun 20, 2025 Form ID: pdf001 Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jun 22, 2025:

Recip ID		Recipient Name and Address
dft	+	Patrick Hagaman Daugherty, 3621 Cornell Avenue, Suite 830, Dallas, TX 75205-2818

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Jun 20 2025 23:42:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jun 20 2025 23:42:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Jun 20 2025 23:42:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 3

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jun 22, 2025 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on June 20, 2025 at the address(es) listed below:

Name	Email Address
Andrew K. York	

on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com

Zachery Z. Annable

on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 2

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S (A) OBJECTION TO PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor" as applicable) in the above-captioned chapter 11 case (the "Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), files this (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* (the "Objection" or the "Cross Motion," as the case may be) in response to the *Motion to Dismiss* [Adv. Pro. Docket No. 5] (the "Motion") filed by Patrick Daugherty ("Daugherty" and together with Highland, the "Parties"). In support of its Objection and Cross Motion, Highland respectfully states as follows:

PRELIMINARY STATEMENT[2]

1. Highland commenced this action to disallow, estimate, and/or subordinate, Daugherty's remaining unliquidated, contingent claim based on an IRS tax refund that Daugherty admittedly received for the 2008 tax year. Daugherty claims that nearly 16 years after receiving his tax refund based on losses related to his Highland Partnership Interests, the Debtor must make him whole if that tax refund is ever successfully challenged by the IRS. In response, relying solely on the Stay Provision, Daugherty moves to dismiss the action as "premature"

[2] Capitalized terms used but not defined in this Preliminary Statement shall have the meanings below or as ascribed in Highland's *Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* (Adv. Pro. Docket No. 1) (the "Complaint").

because there has not been a "final determination of the IRS Audit Dispute."[3] The Motion should be denied.

2. Based on available information, Highland believes that the "IRS [made] a final determination with respect to the IRS Audit Dispute" such that the Stay Provision does not apply. Daugherty disagrees, contending that his Reserved Claim cannot be adjudicated until there is a "final determination of the IRS Audit Dispute."[4] In Daugherty's view, a "final determination" will not occur until (at least) all appeals are exhausted.[5]

3. Rather than wade into the thicket of arcane tax regulations, the most efficient path here is for the Court to simply grant Highland's Cross Motion, strike the Stay Provision from the Settlement Agreement pursuant to Rule 60(b)(6), and deny the Motion.[6] Courts have broad discretion under Rule 60(b)(6) to relieve a party from a final order for "any [] reason that justifies relief." In light of unforeseen circumstances, the Court should use its "grand reservoir of equitable power" under Rule 60(b)(6) to achieve justice by striking the Stay Provision from the Court-approved Settlement Agreement.[7]

4. Since the Parties signed the Settlement Agreement in November 2021, Highland has taken substantial steps to implement its Plan, including monetizing assets, resolving general unsecured claims and interests, and making distributions to Claimant Trust Beneficiaries.

---

[3] Motion ¶7. Daugherty's alternative request that the Court "stay this adversary proceeding until the Debtor's IRS Dispute is fully and finally resolved" (*Id*. ¶18) should be denied because (a) it is conflicts with the Stay Provision, and (b) as discussed below, would cause the Highland Bankruptcy Case to remain open indefinitely.

[4] Motion ¶7.

[5] Motion ¶¶13-14. Daugherty even leaves open the possibility that a "final determination" may not occur "[e]ven at the conclusion of all court proceedings" unless the IRS takes certain action. *Id*. ¶14.

[6] Highland believes that a review of the facts in the context of the thicket of tax regulations would result in a finding that the IRS has made a "final determination with respect to the IRS Audit Dispute." However, Highland makes the Cross Motion in the interests of judicial economy as a far simpler approach and because the relief requested is warranted under the facts and applicable law.

[7] *Seven Elves v. Eskenazi*, 635 F.2d 396, 402 (5th Cir. 1981) ("Rule 60(b) is 'a grand reservoir of equitable power to do justice'") (quoting *Menier v. United States*, 405 F.2 245, 248 (5th Cir. 1968)).

Indeed, Highland has accomplished so much since the Settlement Agreement was signed that it substantially needs only to (a) resolve Daugherty's Reserved Claim, (b) monetize a "limited number of assets," and (c) fix the limited amount of several Class 11 interests before it can begin the dissolution process.[8]

5. No one foresaw more than three and a half years ago that (a) Daugherty's Reserved Claim would remain unresolved at this time, (b) Daugherty would baselessly contend that a "final determination of the IRS Audit Dispute [was] a condition precedent to resolution of" his Claim, or (c) the resolution of Daugherty's Reserved Claim would be among the last things to be done before Highland could commence the dissolution process. The operative Trust Agreements prove as much.[9] Regardless of how the Stay Provision is interpreted, Highland could not and did not agree to leave this Bankruptcy Case open indefinitely, and the Stay Provision was never intended to prevent Highland from dissolving until Daugherty's Reserved Claim was finally determined. Based on unforeseen circumstances, justice requires that the Court use its equitable power to strike the Stay Provision.[10]

6. Daugherty will not be prejudiced by the granting of Highland's Cross-Motion because he will be in the same position he would have been in had Highland objected to his Reserved Claim back in 2021.

---

[8] *See Motion for an Order Further Extending Duration of Trusts*, [Bankr. Docket No. 4213] ("Extension Motion") ¶¶2, 12; *Patrick Daugherty's Objection to 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* [Bankr. Docket No. 4229] ¶12 (acknowledging that Daugherty holds the last remaining unresolved claim against the estate).

[9] The best evidence that no one expected the IRS to need more than five years to make a "final determination," or that the Stay Provision could effectively prevent the commencement of the dissolution process, is Section 9.1 of the Claimant Trust and Litigation Sub-Trust Agreements, both of which contemplate dissolution within five years of the Plan's effective date. Extension Motion ¶9. Pursuant to the Court's recent order, the duration of the Trusts has been extended only until August 11, 2026, five years from the Plan's effective date. Bankr. Docket No. 4298.

[10] Bankruptcy Code section 502(c)(1) expressly authorizes the Court to estimate for allowance purposes "any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, *would unduly delay administration of the estate*." 11 U.S.C. § 502(c)(1) (emphasis added). Granting Highland's Cross Motion will enable the Court to effectuate this statutory provision exactly as intended.

7. Finally, if the Court decides that the IRS has not made a final determination *and* denies the Cross Motion, the Court should grant the Motion and dismiss the Complaint without prejudice, subject to (a) a further extension of the claim objection deadline through February 1, 2026,[11] and (b) Highland's right to re-file the Complaint between January 1, 2026 and January 31, 2026, together with a renewed motion under Rule 60(b)(6) (if necessary) so that they can be adjudicated and Highland's dissolution process can commence before August 11, 2026.

JURISDICTION AND VENUE FOR HIGHLAND'S CROSS MOTION

8. This Court has jurisdiction over Highland's Cross Motion under 28 U.S.C. §§ 157 and 1334 and the retention of jurisdiction provisions of Article XI of the Plan. This is a core proceeding under 28 U.S.C. § 157(b)(2). Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

A. The Parties' Agreement Concerning Daugherty's Reserved Claim

9. Daugherty's operative proof of claim is Claim 205. Claim 205 included a purported tax claim for $1,475,816 of "Compensation Award" plus $1,174,537 of "Estimated Interest", for a total of $2,650,353. Highland and Daugherty later agreed that Highland would reserve Daugherty's asserted amount of $2,650,353, subject to Highland's right to assert any and all defenses as further described below.

10. On December 8, 2021, the Debtor filed the Settlement Motion by which it sought approval of that certain *Settlement Agreement* entered into between Highland and Daugherty (the

[11] Highland's deadline to object to Daugherty's Reserved Claim was extended through June 30, 2025, pursuant to a Tolling Agreement dated as of July 27, 2022, as amended. *See* Bankr. Docket No. 4255, Exhibits 60-63.

"Settlement Agreement"). Morris Exhibit 1.[12] On March 8, 2022, the Court entered the Settlement Order, granting the Settlement Motion and resolving all of Claim 205 other than Mr. Daugherty's claim related to the 2008 IRS Refund that he received (*i.e.*, the Reserved Claim, as defined in the Settlement Agreement).

11. In paragraph 9 of the Settlement Agreement, (a) Highland expressly "reserve[d] the right to assert any and all defenses" to the Reserved Claim, and (b) the parties agreed that "[a]ny litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed *until the IRS makes a final determination* with respect to the IRS Audit Dispute." Morris Exhibit 1 ¶9 (the "Stay Provision") (emphasis added).

B. Highland Concludes the IRS Made a "Final Determination"

12. While employed by the Debtor, Daugherty received Partnership Interests in the Debtor and became one of the Debtor's limited partners.[13] As a partner in Highland, Daugherty was allocated partnership gains and losses pursuant to Highland's limited partnership agreement. For tax purposes, as a partner, each year Daugherty received a Schedule K-1 (IRS Form 1065) reflecting the gains and losses allocated to his Partnership Interests for a particular tax year.

13. On February 27, 2009, the Debtor gave Daugherty a *Comprehensive Compensation and Benefits Statement* recapping all earnings, awards, and benefits Daugherty received in connection with his employment by and Partnership Interests in the Debtor during calendar year 2008 (the "2009 Statement").

---

[12] "Morris Exhibits" refer to the exhibits annexed to the *Declaration of John A. Morris in Support of Highland's (A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Judgment Pursuant to Bankruptcy Rule 9024(b)* being filed contemporaneously with this Objection and Cross Motion.

[13] On October 31, 2011, Daugherty terminated his employment with Highland. Pursuant to the express conditions of his Employment Agreement, Daugherty acknowledged and agreed that the Debtor would "have no further liability or obligation to [Daugherty] under [the Employment Agreement] or in connection with his/her employment of termination."

14. The 2009 Statement included what Highland estimated to be the tax refund Daugherty could expect to receive for tax year 2008 in the amount of $1,475,816 (the "2008 Refund"). That amount purported to be an estimate of the pre-tax equivalent refund that Daugherty should have expected to receive from the IRS on account of the Highland losses attributable to his Partnership Interests for the 2008 tax year. Daugherty recently admitted that the IRS paid him a tax refund "on a net basis of just under $1.2 million."[14]

15. After all of the obligations to Daugherty under the 2009 Statement were satisfied, the IRS began an audit of Highland's 2008 tax return (the "2008 Audit").[15] Highland recently also found information suggesting that the "IRS [made] a final determination with respect to the IRS audit dispute."

16. Specifically, on February 3, 2018, Daugherty was (a) advised that the IRS field examiners had "concluded their audit," (b) informed that his allocable Portfolio income/short term gain was determined to be $1,257,792 (Form 886-Z), representing an adjustment (increase) of $1,231,361 (the "Adjustment"), and (c) given the opportunity to accept the IRS' determination and avoid penalties and further interest. (Form 870-PT). The Adjustment does not represent incremental tax owed, but rather incremental income that would be subject to tax at the applicable tax rate. Morris Exhibits 2-4, respectively.

17. Daugherty apparently decided not to accept the IRS' proposed adjustments and thereby accepted the risk that the IRS might impose penalties and interest on his allocable income/gain.

---

[14] *See* Transcript from June 25, 2025 hearing filed at Docket No. 4296 at 156.

[15] Strand Advisors, Inc. ("Strand") is the pre-petition debtor's tax matters partner for purposes of defending the 2008 Audit. Control of Strand reverted to James Dondero—the Debtor's ousted founder—in 2021, and the Debtor has had no role in the 2008 Audit since then.

18. Upon information and belief, the Adjustment has not changed since 2018 such that Daugherty's maximum tax underpayment exposure is equal to the highest individual income tax rate at the time (37%) times the income Adjustment, or about $455,000.[16]

19. Daugherty seeks to avoid adjudication of his Reserved Claim by asserting that this action is barred by the Stay Provision since there has not been (and may never be) a "final determination of the IRS Audit Dispute." *See generally* Daugherty's Motion.

C. The Highland Bankruptcy Is Nearly Complete and the Highland Claimant Trust Is Expected to Commence the Dissolution Process Before August 11, 2026

20. Daugherty's quest for an indefinite stay of litigation to finally resolve his Reserved Claim is untenable for at least the following reasons: (a) by its terms, the Stay Provision is tied to the *IRS' final determination* with respect to the Audit Dispute, not the "final determination of the IRS Audit Dispute," as Daugherty contends; (b) Section 9.1 of the Trust Agreements shows that Highland's dissolution was expected to commence within five years of the effective date of the Plan, but can only occur after, among other things, all disputed claims are resolved; and (c) if Daugherty's interpretation of the Stay Provision is correct (and it is not), this case will remain open indefinitely at considerable cost to the Claimant Trust and its stakeholders.

21. It is indisputable Highland substantially needs only to (a) resolve Daugherty's Reserved Claim, (b) monetize a "limited number of assets," and (c) fix the limited amount of several Class 11 interests before it can begin the dissolution process. *See supra* ¶4 and n.7. It is also indisputable that the disputes regarding the IRS Audit are unlikely to be completed for years. *See* Motion ¶1.

[16] This (a) does not take into account Highland's causes of action for disallowance and/or subordination and (b) conflicts with Daugherty's recent testimony that the IRS Audit could result in the imposition of millions of dollars in taxes, penalties, and interest that threaten to leave him bankrupt.

22. Thus, awaiting "a final determination of the IRS Audit" (or even the IRS' final determination if this Court finds that no such determination has yet been made) will unduly delay the administration of the Highland estate, including the anticipated commencement of Highland's dissolution process before August 11, 2026.

RELIEF REQUESTED ON CROSS MOTION

23. Pursuant to Bankruptcy Rule 9024(b)(6) ("Rule 60(b)(6)"), Highland files this Cross Motion and requests that the Court modify the Settlement Order to provide that the Stay Provision is stricken from the Settlement Agreement.

24. Courts have repeatedly observed that Rule 60(b)(6) "should be liberally construed" and that courts have broad discretion to grant relief under that provision to accomplish justice. *See*, *e.g.*, *Celtic Marine Corp. v. James C. Justice Cos.*, 593 F. App'x 300, 303 (5th Cir. 2014) ("Clause (6) is a residual clause used to cover unforeseen contingencies; that is, it is a means for accomplishing justice in exceptional circumstances … the rule should be liberally construed in order to achieve substantial justice") (quoting *Steverson v. GlobalSantaFe Corp.*, 508 F.3d 303 (5th Cir. 2007)); *Lindy Invs. v. Shakertown 1992, Inc.*, 360 F. App'x 510 (5th Cir. 2010) (granting Rule 60(b)(6) motion and observing that "the discretion under 60(b)(6) is said to be especially broad because relief may be granted under it when appropriate to accomplish justice.'") (quoting *Harrell v. DCS Equip. Leasing Corp.*, 951 F.3d 1453, 1458 (5th Cir. 1992); *Seven Elves*, 635 F.2d at 401-02 (Rule 60(b)(6) "should be liberally construed in order to do substantial justice" and is 'a grand reservoir of equitable power to do justice'"); *In re Strudel Holdings LLC*, 656 B.R. 404 (Bankr. S.D. Tex. 2024 (granting Rule 60(b)(6) motion to amend sale order to modify the closing date based on unforeseen circumstances).

25. This is an easy case. Highland's dissolution is intended to commence by August 11, 2026, and was never dependent on the resolution of Daugherty's Reserved Claim the adjudication of which is plainly contemplated by Bankruptcy Code section 502(c). The Court should grant the Cross Motion so as not to indefinitely delay the conclusion of Highland's Bankruptcy Case and dissolution of the Claimant Trust.

CONCLUSION

WHEREFORE, Highland respectfully requests that the Court (a) deny the Motion and grant the Cross Motion; (b) alternatively, grant the Motion and dismiss the Complaint without prejudice, subject to (i) a further extension of the claim objection deadline through February 1, 2026, and (ii) Highland's right to re-file the Complaint between January 1, 2026 and January 31, 2026, together with a renewed motion under Rule 60(b)(6) (if necessary) so that they can be adjudicated and Highland's dissolution process can commence before August 11, 2026; and (c) grant Highland such further and additional relief as it may justly be entitled.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Dated: July 18, 2025.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that, on July 18, 2025, counsel for Highland, John Morris, conferred with counsel for Daugherty, Drew York, regarding the relief requested in the foregoing Cross Motion. Daugherty is **OPPOSED** to the relief requested in the Cross Motion.

/s/ Zachery Z. Annable
Zachery Z. Annable

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

ORDER (A) DENYING PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) GRANTING HIGHLAND CAPITAL MANAGEMENT, L.P.'S CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Having considered (i) the *Motion to Dismiss* [Adv. Pro. Docket No. 5] (the "Motion") filed by Patrick Daugherty ("Daugherty") and (ii) the (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* (the "Objection" and the "Cross Motion," as appropriate)[2] filed by Highland Capital Management, L.P., the Court finds and concludes that: (i) the Court has jurisdiction to consider the Motion, the Objection, and the Cross Motion under 28 U.S.C. §§ 157 and 1334 and the retention of jurisdiction provisions of Article XI of the Plan; (ii) consideration of the Motion, the Objection, and the Cross Motion is a core proceeding under 28 U.S.C. § 157(b)(2); (iii) venue is proper in this district under 28 U.S.C. §§ 1408 and 1409; and (iv) the legal and factual bases set forth in the Objection and the Cross Motion establish good cause for the relief granted herein. Accordingly, it is hereby **ORDERED THAT**:

1. The Motion is **DENIED** in its entirety.

2. The Cross Motion is **GRANTED** in its entirety.

3. Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement.

4. The Court shall retain exclusive jurisdiction to hear and determine all matters and disputes arising from the interpretation and implementation of this Order.

###End of Order###

[2] Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Objection and Cross Motion.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S (A) OBJECTION TO PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor" as applicable) in the above-captioned chapter 11 case (the "Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), files this (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* (the "Objection" or the "Cross Motion," as the case may be) in response to the *Motion to Dismiss* [Adv. Pro. Docket No. 5] (the "Motion") filed by Patrick Daugherty ("Daugherty" and together with Highland, the "Parties"). In support of its Objection and Cross Motion, Highland respectfully states as follows:

PRELIMINARY STATEMENT[2]

1. Highland commenced this action to disallow, estimate, and/or subordinate, Daugherty's remaining unliquidated, contingent claim based on an IRS tax refund that Daugherty admittedly received for the 2008 tax year. Daugherty claims that nearly 16 years after receiving his tax refund based on losses related to his Highland Partnership Interests, the Debtor must make him whole if that tax refund is ever successfully challenged by the IRS. In response, relying solely on the Stay Provision, Daugherty moves to dismiss the action as "premature"

[2] Capitalized terms used but not defined in this Preliminary Statement shall have the meanings below or as ascribed in Highland's *Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* (Adv. Pro. Docket No. 1) (the "Complaint").

because there has not been a "final determination of the IRS Audit Dispute."[3] The Motion should be denied.

2. Based on available information, Highland believes that the "IRS [made] a final determination with respect to the IRS Audit Dispute" such that the Stay Provision does not apply. Daugherty disagrees, contending that his Reserved Claim cannot be adjudicated until there is a "final determination of the IRS Audit Dispute."[4] In Daugherty's view, a "final determination" will not occur until (at least) all appeals are exhausted.[5]

3. Rather than wade into the thicket of arcane tax regulations, the most efficient path here is for the Court to simply grant Highland's Cross Motion, strike the Stay Provision from the Settlement Agreement pursuant to Rule 60(b)(6), and deny the Motion.[6] Courts have broad discretion under Rule 60(b)(6) to relieve a party from a final order for "any [] reason that justifies relief." In light of unforeseen circumstances, the Court should use its "grand reservoir of equitable power" under Rule 60(b)(6) to achieve justice by striking the Stay Provision from the Court-approved Settlement Agreement.[7]

4. Since the Parties signed the Settlement Agreement in November 2021, Highland has taken substantial steps to implement its Plan, including monetizing assets, resolving general unsecured claims and interests, and making distributions to Claimant Trust Beneficiaries.

---

[3] Motion ¶7. Daugherty's alternative request that the Court "stay this adversary proceeding until the Debtor's IRS Dispute is fully and finally resolved" (*Id*. ¶18) should be denied because (a) it is conflicts with the Stay Provision, and (b) as discussed below, would cause the Highland Bankruptcy Case to remain open indefinitely.

[4] Motion ¶7.

[5] Motion ¶¶13-14. Daugherty even leaves open the possibility that a "final determination" may not occur "[e]ven at the conclusion of all court proceedings" unless the IRS takes certain action. *Id*. ¶14.

[6] Highland believes that a review of the facts in the context of the thicket of tax regulations would result in a finding that the IRS has made a "final determination with respect to the IRS Audit Dispute." However, Highland makes the Cross Motion in the interests of judicial economy as a far simpler approach and because the relief requested is warranted under the facts and applicable law.

[7] *Seven Elves v. Eskenazi*, 635 F.2d 396, 402 (5th Cir. 1981) ("Rule 60(b) is 'a grand reservoir of equitable power to do justice'") (quoting *Menier v. United States*, 405 F.2 245, 248 (5th Cir. 1968)).

Indeed, Highland has accomplished so much since the Settlement Agreement was signed that it substantially needs only to (a) resolve Daugherty's Reserved Claim, (b) monetize a "limited number of assets," and (c) fix the limited amount of several Class 11 interests before it can begin the dissolution process.[8]

5. No one foresaw more than three and a half years ago that (a) Daugherty's Reserved Claim would remain unresolved at this time, (b) Daugherty would baselessly contend that a "final determination of the IRS Audit Dispute [was] a condition precedent to resolution of" his Claim, or (c) the resolution of Daugherty's Reserved Claim would be among the last things to be done before Highland could commence the dissolution process. The operative Trust Agreements prove as much.[9] Regardless of how the Stay Provision is interpreted, Highland could not and did not agree to leave this Bankruptcy Case open indefinitely, and the Stay Provision was never intended to prevent Highland from dissolving until Daugherty's Reserved Claim was finally determined. Based on unforeseen circumstances, justice requires that the Court use its equitable power to strike the Stay Provision.[10]

6. Daugherty will not be prejudiced by the granting of Highland's Cross-Motion because he will be in the same position he would have been in had Highland objected to his Reserved Claim back in 2021.

---

[8] *See Motion for an Order Further Extending Duration of Trusts*, [Bankr. Docket No. 4213] ("Extension Motion") ¶¶2, 12; *Patrick Daugherty's Objection to 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* [Bankr. Docket No. 4229] ¶12 (acknowledging that Daugherty holds the last remaining unresolved claim against the estate).

[9] The best evidence that no one expected the IRS to need more than five years to make a "final determination," or that the Stay Provision could effectively prevent the commencement of the dissolution process, is Section 9.1 of the Claimant Trust and Litigation Sub-Trust Agreements, both of which contemplate dissolution within five years of the Plan's effective date. Extension Motion ¶9. Pursuant to the Court's recent order, the duration of the Trusts has been extended only until August 11, 2026, five years from the Plan's effective date. Bankr. Docket No. 4298.

[10] Bankruptcy Code section 502(c)(1) expressly authorizes the Court to estimate for allowance purposes "any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, *would unduly delay administration of the estate*." 11 U.S.C. § 502(c)(1) (emphasis added). Granting Highland's Cross Motion will enable the Court to effectuate this statutory provision exactly as intended.

7. Finally, if the Court decides that the IRS has not made a final determination *and* denies the Cross Motion, the Court should grant the Motion and dismiss the Complaint without prejudice, subject to (a) a further extension of the claim objection deadline through February 1, 2026,[11] and (b) Highland's right to re-file the Complaint between January 1, 2026 and January 31, 2026, together with a renewed motion under Rule 60(b)(6) (if necessary) so that they can be adjudicated and Highland's dissolution process can commence before August 11, 2026.

JURISDICTION AND VENUE FOR HIGHLAND'S CROSS MOTION

8. This Court has jurisdiction over Highland's Cross Motion under 28 U.S.C. §§ 157 and 1334 and the retention of jurisdiction provisions of Article XI of the Plan. This is a core proceeding under 28 U.S.C. § 157(b)(2). Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

A. The Parties' Agreement Concerning Daugherty's Reserved Claim

9. Daugherty's operative proof of claim is Claim 205. Claim 205 included a purported tax claim for $1,475,816 of "Compensation Award" plus $1,174,537 of "Estimated Interest", for a total of $2,650,353. Highland and Daugherty later agreed that Highland would reserve Daugherty's asserted amount of $2,650,353, subject to Highland's right to assert any and all defenses as further described below.

10. On December 8, 2021, the Debtor filed the Settlement Motion by which it sought approval of that certain *Settlement Agreement* entered into between Highland and Daugherty (the

[11] Highland's deadline to object to Daugherty's Reserved Claim was extended through June 30, 2025, pursuant to a Tolling Agreement dated as of July 27, 2022, as amended. *See* Bankr. Docket No. 4255, Exhibits 60-63.

"Settlement Agreement"). Morris Exhibit 1.[12] On March 8, 2022, the Court entered the Settlement Order, granting the Settlement Motion and resolving all of Claim 205 other than Mr. Daugherty's claim related to the 2008 IRS Refund that he received (*i.e.*, the Reserved Claim, as defined in the Settlement Agreement).

11. In paragraph 9 of the Settlement Agreement, (a) Highland expressly "reserve[d] the right to assert any and all defenses" to the Reserved Claim, and (b) the parties agreed that "[a]ny litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed *until the IRS makes a final determination* with respect to the IRS Audit Dispute." Morris Exhibit 1 ¶9 (the "Stay Provision") (emphasis added).

B. Highland Concludes the IRS Made a "Final Determination"

12. While employed by the Debtor, Daugherty received Partnership Interests in the Debtor and became one of the Debtor's limited partners.[13] As a partner in Highland, Daugherty was allocated partnership gains and losses pursuant to Highland's limited partnership agreement. For tax purposes, as a partner, each year Daugherty received a Schedule K-1 (IRS Form 1065) reflecting the gains and losses allocated to his Partnership Interests for a particular tax year.

13. On February 27, 2009, the Debtor gave Daugherty a *Comprehensive Compensation and Benefits Statement* recapping all earnings, awards, and benefits Daugherty received in connection with his employment by and Partnership Interests in the Debtor during calendar year 2008 (the "2009 Statement").

---

[12] "Morris Exhibits" refer to the exhibits annexed to the *Declaration of John A. Morris in Support of Highland's (A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Judgment Pursuant to Bankruptcy Rule 9024(b)* being filed contemporaneously with this Objection and Cross Motion.

[13] On October 31, 2011, Daugherty terminated his employment with Highland. Pursuant to the express conditions of his Employment Agreement, Daugherty acknowledged and agreed that the Debtor would "have no further liability or obligation to [Daugherty] under [the Employment Agreement] or in connection with his/her employment of termination."

14. The 2009 Statement included what Highland estimated to be the tax refund Daugherty could expect to receive for tax year 2008 in the amount of $1,475,816 (the "2008 Refund"). That amount purported to be an estimate of the pre-tax equivalent refund that Daugherty should have expected to receive from the IRS on account of the Highland losses attributable to his Partnership Interests for the 2008 tax year. Daugherty recently admitted that the IRS paid him a tax refund "on a net basis of just under $1.2 million."[14]

15. After all of the obligations to Daugherty under the 2009 Statement were satisfied, the IRS began an audit of Highland's 2008 tax return (the "2008 Audit").[15] Highland recently also found information suggesting that the "IRS [made] a final determination with respect to the IRS audit dispute."

16. Specifically, on February 3, 2018, Daugherty was (a) advised that the IRS field examiners had "concluded their audit," (b) informed that his allocable Portfolio income/short term gain was determined to be $1,257,792 (Form 886-Z), representing an adjustment (increase) of $1,231,361 (the "Adjustment"), and (c) given the opportunity to accept the IRS' determination and avoid penalties and further interest. (Form 870-PT). The Adjustment does not represent incremental tax owed, but rather incremental income that would be subject to tax at the applicable tax rate. Morris Exhibits 2-4, respectively.

17. Daugherty apparently decided not to accept the IRS' proposed adjustments and thereby accepted the risk that the IRS might impose penalties and interest on his allocable income/gain.

---

[14] *See* Transcript from June 25, 2025 hearing filed at Docket No. 4296 at 156.

[15] Strand Advisors, Inc. ("Strand") is the pre-petition debtor's tax matters partner for purposes of defending the 2008 Audit. Control of Strand reverted to James Dondero—the Debtor's ousted founder—in 2021, and the Debtor has had no role in the 2008 Audit since then.

18. Upon information and belief, the Adjustment has not changed since 2018 such that Daugherty's maximum tax underpayment exposure is equal to the highest individual income tax rate at the time (37%) times the income Adjustment, or about $455,000.[16]

19. Daugherty seeks to avoid adjudication of his Reserved Claim by asserting that this action is barred by the Stay Provision since there has not been (and may never be) a "final determination of the IRS Audit Dispute." *See generally* Daugherty's Motion.

C. The Highland Bankruptcy Is Nearly Complete and the Highland Claimant Trust Is Expected to Commence the Dissolution Process Before August 11, 2026

20. Daugherty's quest for an indefinite stay of litigation to finally resolve his Reserved Claim is untenable for at least the following reasons: (a) by its terms, the Stay Provision is tied to the *IRS' final determination* with respect to the Audit Dispute, not the "final determination of the IRS Audit Dispute," as Daugherty contends; (b) Section 9.1 of the Trust Agreements shows that Highland's dissolution was expected to commence within five years of the effective date of the Plan, but can only occur after, among other things, all disputed claims are resolved; and (c) if Daugherty's interpretation of the Stay Provision is correct (and it is not), this case will remain open indefinitely at considerable cost to the Claimant Trust and its stakeholders.

21. It is indisputable Highland substantially needs only to (a) resolve Daugherty's Reserved Claim, (b) monetize a "limited number of assets," and (c) fix the limited amount of several Class 11 interests before it can begin the dissolution process. *See supra* ¶4 and n.7. It is also indisputable that the disputes regarding the IRS Audit are unlikely to be completed for years. *See* Motion ¶1.

[16] This (a) does not take into account Highland's causes of action for disallowance and/or subordination and (b) conflicts with Daugherty's recent testimony that the IRS Audit could result in the imposition of millions of dollars in taxes, penalties, and interest that threaten to leave him bankrupt.

22. Thus, awaiting "a final determination of the IRS Audit" (or even the IRS' final determination if this Court finds that no such determination has yet been made) will unduly delay the administration of the Highland estate, including the anticipated commencement of Highland's dissolution process before August 11, 2026.

RELIEF REQUESTED ON CROSS MOTION

23. Pursuant to Bankruptcy Rule 9024(b)(6) ("Rule 60(b)(6)"), Highland files this Cross Motion and requests that the Court modify the Settlement Order to provide that the Stay Provision is stricken from the Settlement Agreement.

24. Courts have repeatedly observed that Rule 60(b)(6) "should be liberally construed" and that courts have broad discretion to grant relief under that provision to accomplish justice. *See*, *e.g.*, *Celtic Marine Corp. v. James C. Justice Cos.*, 593 F. App'x 300, 303 (5th Cir. 2014) ("Clause (6) is a residual clause used to cover unforeseen contingencies; that is, it is a means for accomplishing justice in exceptional circumstances … the rule should be liberally construed in order to achieve substantial justice") (quoting *Steverson v. GlobalSantaFe Corp.*, 508 F.3d 303 (5th Cir. 2007)); *Lindy Invs. v. Shakertown 1992, Inc.*, 360 F. App'x 510 (5th Cir. 2010) (granting Rule 60(b)(6) motion and observing that "the discretion under 60(b)(6) is said to be especially broad because relief may be granted under it when appropriate to accomplish justice.'") (quoting *Harrell v. DCS Equip. Leasing Corp.*, 951 F.3d 1453, 1458 (5th Cir. 1992); *Seven Elves*, 635 F.2d at 401-02 (Rule 60(b)(6) "should be liberally construed in order to do substantial justice" and is 'a grand reservoir of equitable power to do justice'"); *In re Strudel Holdings LLC*, 656 B.R. 404 (Bankr. S.D. Tex. 2024 (granting Rule 60(b)(6) motion to amend sale order to modify the closing date based on unforeseen circumstances).

25. This is an easy case. Highland's dissolution is intended to commence by August 11, 2026, and was never dependent on the resolution of Daugherty's Reserved Claim the adjudication of which is plainly contemplated by Bankruptcy Code section 502(c). The Court should grant the Cross Motion so as not to indefinitely delay the conclusion of Highland's Bankruptcy Case and dissolution of the Claimant Trust.

CONCLUSION

WHEREFORE, Highland respectfully requests that the Court (a) deny the Motion and grant the Cross Motion; (b) alternatively, grant the Motion and dismiss the Complaint without prejudice, subject to (i) a further extension of the claim objection deadline through February 1, 2026, and (ii) Highland's right to re-file the Complaint between January 1, 2026 and January 31, 2026, together with a renewed motion under Rule 60(b)(6) (if necessary) so that they can be adjudicated and Highland's dissolution process can commence before August 11, 2026; and (c) grant Highland such further and additional relief as it may justly be entitled.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Dated: July 18, 2025.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that, on July 18, 2025, counsel for Highland, John Morris, conferred with counsel for Daugherty, Drew York, regarding the relief requested in the foregoing Cross Motion. Daugherty is **OPPOSED** to the relief requested in the Cross Motion.

/s/ Zachery Z. Annable
Zachery Z. Annable

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

ORDER (A) DENYING PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) GRANTING HIGHLAND CAPITAL MANAGEMENT, L.P.'S CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Having considered (i) the *Motion to Dismiss* [Adv. Pro. Docket No. 5] (the "Motion") filed by Patrick Daugherty ("Daugherty") and (ii) the (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* (the "Objection" and the "Cross Motion," as appropriate)[2] filed by Highland Capital Management, L.P., the Court finds and concludes that: (i) the Court has jurisdiction to consider the Motion, the Objection, and the Cross Motion under 28 U.S.C. §§ 157 and 1334 and the retention of jurisdiction provisions of Article XI of the Plan; (ii) consideration of the Motion, the Objection, and the Cross Motion is a core proceeding under 28 U.S.C. § 157(b)(2); (iii) venue is proper in this district under 28 U.S.C. §§ 1408 and 1409; and (iv) the legal and factual bases set forth in the Objection and the Cross Motion establish good cause for the relief granted herein. Accordingly, it is hereby **ORDERED THAT**:

1. The Motion is **DENIED** in its entirety.

2. The Cross Motion is **GRANTED** in its entirety.

3. Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement.

4. The Court shall retain exclusive jurisdiction to hear and determine all matters and disputes arising from the interpretation and implementation of this Order.

###End of Order###

[2] Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Objection and Cross Motion.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

DECLARATION OF JOHN A. MORRIS IN SUPPORT OF HIGHLAND CAPITAL MANAGEMENT, L.P.'S (A) OBJECTION TO PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

I, John A. Morris, pursuant to 28 U.S.C. § 1746, under penalty of perjury, declare as follows:

1. I am an attorney in the law firm of Pachulski, Stang, Ziehl & Jones LLP, counsel to Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above-captioned chapter 11 case. I submit this Declaration in support of *Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* (the "Objection" or the "Cross Motion," as the case may be) being filed contemporaneously with this Declaration. This Declaration is based on my personal knowledge and review of the documents listed below.

2. Attached hereto as **Exhibit 1** is a true and correct copy of that certain *Settlement Agreement* (the "Settlement Agreement") by and between Highland and Patrick Daugherty ("Daugherty"), dated November 22, 2021.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the transmittal letter dated February 3, 2018, regarding the IRS' proposed tax adjustments for the 2008 tax year (the "Audit Letter").

4. Attached hereto as **Exhibit 3** is a true and correct copy of IRS Form 886-Z (only as it pertains to Daugherty) that was attached to the Audit Letter.

5. Attached hereto as **Exhibit 4** is a true and correct copy of IRS Form 870-PT pertaining to Daugherty that was also attached to the Audit Letter.

Dated: July 18, 2025

/s/ John A. Morris
John A. Morris

EXHIBIT 1

Final Execution Copy

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement") is made and entered into by and between (i) Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), and (ii) Patrick Hagaman Daugherty ("Daugherty" and together with HCMLP, the "Parties," and individually as a "Party"). This Settlement provides for the treatment of certain claims asserted by Daugherty against the Debtor, and for the Parties to take certain other specified actions in settlement thereof.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, the Debtor's chapter 11 case (the "Bankruptcy") is pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, on February 2 and 3, 2021, the Court conducted a confirmation hearing with respect to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) [Docket No. 1808] (the "Plan");

WHEREAS, on February 8, 2021, the Court rendered an opinion from the bench in which it confirmed the Plan [Docket No. 1924];

WHEREAS, on February 22, 2021, the Court issued an order confirming the Plan [Docket No. 1943];

WHEREAS, on August 11, 2021, the Effective Date (as defined in the Plan) occurred [Docket No. 2700];

WHEREAS, Daugherty is a former employee and limited partner of the Debtor and has

served in other positions with affiliates and former affiliates of the Debtor;

WHEREAS, at the time of his resignation, Daugherty owned 19.1% of the preferred units of Highland Employee Retention Assets LLC ("HERA"), an employee deferred compensation vehicle managed by the Debtor and Highland ERA Management, LLC ("ERA") and contends that he owned or had the right to own all of the preferred units of HERA;

WHEREAS, prior to his resignation from HCMLP, Daugherty was awarded units of HERA, which vehicle owned interests in Restoration Capital Partners, LP ("RCP"), an HCMLP managed private equity fund, and other investments;

WHEREAS, in April 2012, the Debtor commenced an action against Daugherty in Texas state court (the "Texas Action"), and Daugherty subsequently asserted counterclaims for breach of contract and defamation, and third-party claims against HERA and others;

WHEREAS, after a three-week trial, the jury returned a verdict partially in favor of the Debtor, but Daugherty prevailed on his claims against the Debtor and James Dondero ("Dondero") for defamation with malice and a third-party claim against HERA and was awarded damages of $2.6 million against HERA, plus prejudgment and post-judgment interest at 5% (the "HERA Judgment");[1]

WHEREAS, in July 2017, after being unable to collect on the HERA Judgment, Daugherty commenced an action against the Debtor, Dondero, HERA, and ERA Management in the Delaware Chancery Court (the "Delaware Court"), in a case captioned *Daugherty v. Highland Capital Management, L.P., et al.*, C.A. No. 2017-0488-MTZ, for fraudulent transfer, promissory estoppel, unjust enrichment, indemnification, and fees on fees (the "Highland Delaware Case");

[1] The Debtor prevailed on its claims against Mr. Daugherty for breach of contract and breach of fiduciary duty for non-monetary damages and obtained an award of $2.8 million in attorney's fees. The HERA Judgment was affirmed on appeal on December 1, 2016.

WHEREAS, the Delaware Court in the Highland Delaware Case (i) found that the Dondero-related defendants improperly withheld dozens of documents in discovery on privilege grounds, and (ii) ruled that there was "a reasonable basis to believe that a fraud has been perpetrated" such that the Delaware Court applied the "crime-fraud exception" to the attorney-client privilege assertion, and such rulings have not been overturned;

WHEREAS, Daugherty asserts that such withholding of documents and the failure to search defendants' and their employees personal electronic devices for stored documents and texts as well as other emails and domain names such as sasmgt.com and gmail.com which were in their possession and control and to provide required discovery injured him by undermining his attempts to build an evidentiary record to support his claims against the Debtor and the other defendants in the Highland Delaware Case;

WHEREAS, on October 14, 2019, the Highland Delaware Case proceeded to trial and two days later, on October 16, 2019, before the completion of the trial and before the Delaware Court ruled on Daugherty's and the Debtor's cross-motions for summary judgment regarding indemnification and fees on fees, the Debtor filed for bankruptcy;

WHEREAS, on December 1, 2019, Daugherty filed a separate lawsuit in the Delaware Court, captioned *Daugherty v. Dondero, et al.*, C.A. No. 2019-0956-MTZ, against Dondero, HERA, ERA, Hunton Andrews Kurth LLP ("Andrews Kurth"), Marc Katz ("Katz"), Michael Hurst ("Hurst"), the Debtor's Chief Compliance Officer, the Debtor's then in-house counsel (Isaac Leventon ("Leventon")), and the Debtor's then general counsel (Scott Ellington ("Ellington")), for conspiracy to commit fraud, among other claims (the "HERA Delaware Case" and together with the Highland Delaware Case, the "Delaware Cases");

WHEREAS, on April 1, 2020, Daugherty filed a general, unsecured, non-priority claim

against the Debtor in the amount of at "least $37,483,876.59," and such claim was denoted by the Debtor's claims agent as Proof of Claim No. 67 ("Proof of Claim No. 67");

WHEREAS, on April 6, 2020, Daugherty filed a general, unsecured, non-priority claim against the Debtor in the amount of at "least $37,482,876.62" that superseded Proof of Claim No. 67 and that was denoted by the Debtor's claims agent as Proof of Claim No. 77 ("Proof of Claim No. 77");

WHEREAS, on August 31, 2020, the Debtor commenced an adversary proceeding against Daugherty by filing a complaint (the "Complaint") in which the Debtor: (1) objected to Proof of Claim No. 77 on various grounds (the "Claim Objection"), and (2) asserted a cause of action for the subordination of part of Daugherty's claim pursuant to section 510(b) of the Bankruptcy Code. Adv. Proc. No. 20-03107 (the "Adv. Proc.") [Adv. Docket No. 1] (the "Adversary Proceeding");

WHEREAS, on September 29, 2020, Daugherty filed his answer to the Complaint [Adv. Docket No. 8] (the "Answer");

WHEREAS, on September 24, 2020, Daugherty filed his *Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay* [Docket No. 1099] (the "Stay Motion") pursuant to which he sought to sever the Debtor from the Highland Delaware Case and then consolidate the remaining claims in the Highland Delaware Case into the HERA Delaware Case and proceed with one case against the non-Debtor parties;[2]

WHEREAS, on October 23, 2020, Daugherty filed a motion seeking leave to amend his Proof of Claim No. 77 [Docket No. 1280] (the "POC Amendment Motion"). The amended proof

[2] On October 8, 2020, the Debtor commenced a second adversary proceeding against Daugherty (the "Second Adversary Proceeding"), seeking to enjoin him from prosecuting the Delaware Cases. Adv. Proc. 20-03128 ("2d Adv. Proc.") [2d Adv. Proc. Docket No. 1]. On January 29, 2021, the parties filed a Settlement that resolved the Second Adversary Proceeding, and the Second Adversary Proceeding was subsequently dismissed with prejudice. [2d Adv. Proc. Docket No. 12].

of claim attached to the POC Amendment Motion increased Daugherty's general, unsecured, non-priority claim against the Debtor to the amount of at "least $40,410,819.42" and sought to supersede Proof of Claim No. 67 and Proof of Claim No. 77;

WHEREAS, on October 23, 2020, Daugherty filed his *Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Motion*, seeking for his Claim to be temporarily allowed for voting purposes in this amount of $40,410,819.42 [Docket No. 1281] (the "3018 Motion");

WHEREAS, on November 3, 2020, the Court granted the Stay Motion [Docket No. 1327];

WHEREAS, the Debtor opposed the 3018 Motion, and after conducting an evidentiary hearing for the limited purpose of determining the 3018 Motion, the Court entered an order temporarily allowing Daugherty's Claim only for voting purposes in the amount of $9,134,019 [Docket No. 1474];

WHEREAS, on December 10, 2020, the Court entered an order [Docket No. 1533] granting the POC Amendment Motion, and Daugherty was permitted to file an amendment to his proof of claim. On December 23, 2020, Daugherty filed an amended proof of claim, designated by the Debtor's claim agent as Proof of Claim No. 205 ("Proof of Claim No. 205" or the "Daugherty Claim"). Proof of Claim No. 205 superseded Proof of Claim No. 77 and increased the amount of the Daugherty's Claim to $40,710,819.42;

WHEREAS, on November 30, 2020, Daugherty filed his Motion to Lift the Automatic Stay (the "Lift Stay Motion") [Docket No. 1491] seeking to lift the automatic stay to allow him to finish his trial in the Delaware Court and liquidate his claims. The Debtor opposed the Lift Stay Motion, and after a hearing was held on December 17, 2020, the Court denied the relief requested in the Lift Stay Motion [Docket No. 1612];

WHEREAS, except with respect to the Reserved Claim (as defined below), the Parties have agreed to settle and resolve all claims and disputes between them and their respective current affiliates, managed entities, and employees, including the Daugherty Claim, on the terms set forth in this Settlement:

AGREEMENT

NOW, THEREFORE, after good-faith, arms-length negotiations, and in consideration of the foregoing, it is hereby stipulated and agreed that:

1. Allowed Claims: In full satisfaction of the entirety of the Daugherty Claim against the Debtor and HCMLP Released Parties (defined below), excluding the Reserved Claim, Daugherty shall receive (a) an allowed general unsecured Class 8 claim in the amount of $8,250,000; (b) an allowed subordinated general unsecured Class 9 claim in the amount of $3,750,000; and (c) a one-time lump sum cash payment in the amount of $750,000 to be paid within 5 business days of Bankruptcy Court approval of this Settlement Agreement.

2. Recovery: The Debtor makes no representation or warranty as to the recovery on Class 8 or Class 9 claims under the Plan.

3. Observation Access: As soon as practicable following entry of an order of the Bankruptcy Court approving this Settlement, HCMLP shall use reasonable efforts to petition the Claimant Trust Oversight Board[3] to permit Daugherty to have access as an observer to meetings of the Claimant Trust Oversight Board, subject to policies, procedures, and agreements applicable to other observers of the Claimant Trust Oversight Board, including policies, procedures, and agreements related to confidentiality and common interest. Whether Daugherty will be granted observer access and any continuing observer access is and will remain at the sole discretion of the

[3] The Claimant Trust Oversight Board refers to the Oversight Board as defined in the August 11, 2021 Highland Claimant Trust Agreement establishing the Claimant Trust, as defined therein.

Claimant Trust Oversight Board.

4. RCP Track Record: HCMLP shall use reasonable efforts to provide Daugherty with data constituting the investment performance track record of RCP during Daugherty's tenure at HCMLP. Daugherty shall not be entitled to any compensation with respect to the performance of RCP. HCMLP makes no representations or warranties regarding such data and takes no responsibility with respect to the use of such data for any purposes.

5. Daugherty Releases: Except as specifically provided in this paragraph 5, and to the maximum extent permitted by applicable law, the Debtor, on behalf of itself and each of the HCMLP Entities and HCMLP Parties (as those terms are defined in paragraph 6 below), hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue Daugherty, his successors, affiliates, and assigns, (and in each such category to include their respective advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, and designees) (collectively, the "Daugherty Additional Release Parties" and together with Daugherty, the "Daugherty Released Parties"), in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, or the Delaware Cases, all existing as of the date hereof (collectively, the "HCMLP Released Claims"); provided, however, that such release shall not

apply with respect to any and all defenses that HCMLP or the HCMLP Entities may have to the Reserved Claim or the Reserve Motion (as those terms are defined herein) or Daugherty's obligations under this Settlement. For the avoidance of doubt, the HCMLP Released Claims include all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

6. HCMLP Releases: Except as specifically provided in this paragraph 6, and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Released Parties, hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (a)(i) HCMLP; (ii) Strand Advisors Inc.; (iii) the Claimant Trust; (iv) the Claimant Trust Oversight Board; (v) the Highland Litigation Sub-Trust; (vi) the Highland Indemnity Trust; (vii) any entity of which greater than fifty percent of the voting ownership is held directly or indirectly by HCMLP as of the date hereof and any entity otherwise directly or indirectly controlled by HCMLP as of the date hereof,; and (viii) any entity managed by either HCMLP or a direct or indirect subsidiary of HCMLP, including Highland Restoration Capital Partners, L.P., Highland Restoration Capital Partners Offshore, L.P., Highland Restoration Capital Master, L.P. (and all of their respective general partners, feeder funds, managers, and affiliates) (the foregoing (a)(i) through (a)(viii) the "HCMLP Entities"), and (b) with respect to each such HCMLP Entity, such HCMLP Entity's respective current (meaning employed in their respective roles as of the date hereof) advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders (but not the shareholders of Strand Advisors Inc.), agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns, except as expressly set forth below (the "HCMLP Parties," and together with the

HCMLP Entities, the "HCMLP Released Parties"),[4] in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, or the Highland Delaware Case (collectively, the "Daugherty Released Claims"); provided, however, that such release shall not apply with respect to the Reserved Claim or the Reserve Motion (as those terms are defined in paragraph 9 below) or HCMLP's obligations under this Settlement. This release expressly applies to all current employees of HCMLP as the Reorganized Debtor (as defined in the Plan), in their capacities as such. For the avoidance of doubt, the Daugherty Released Claims includes all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

7. Reservation of Daugherty Rights: Notwithstanding anything contained herein to the contrary, the term HCMLP Released Parties shall not include (a) NexPoint Advisors, L.P. (or any of its subsidiaries and employees, advisors, or agents), (b) the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and any of their respective employees, advisors, or agents), (c) NexBank, SSB (or any of its subsidiaries, employees, advisors, or agents), (d) James Dondero or any trust in which Dondero or any of his family members are a trustee or beneficiary (or any trustee acting for such trust), including but not limited to Hunter

[4] The Daugherty Additional Released Parties and the HCMLP Released Parties are collectively referred to as the "Additional Released Parties."

Mountain Investment Trust, The Get Good Trust, Dugaboy Investment Trust, SLHC Investment Trust, (e) HERA (subject to paragraph 8 below), (f) ERA (subject to paragraph 8 below), (g) Grant Scott, (h) Mark Okada and any trust in which Mark Okada or any of his family members are a beneficiary (or any trustee acting for such trust in their respective capacities), (i) Ellington, (j) Leventon, (k) Katz, (l) Hurst, (m) Andrews Kurth, or (m) any other former employee (as of the date hereof) of the HCMLP Released Parties.

8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

10. Current HCMLP Employees: The HCMLP Parties set forth on **Appendix A** hereto are currently employed by the Debtor are HCMLP Released Parties. By executing a copy of this Settlement and delivering it to Daugherty, each of the persons on Appendix A agrees not to sue, attempt to sue, or threaten or work with or assist any entity or person to sue, attempt to sue, or threaten any Daugherty Released Party on or in connection with any claim or cause of action arising prior to the date of this Settlement.

11. Dismissal and Motions in Other Actions. Within ten business days after approval of this Settlement by the Bankruptcy Court, the Parties shall take all steps necessary (a) to dismiss with prejudice (i) the Highland Delaware Case, as against the Debtor and any HCMLP Released Party, and (ii) the HERA Delaware Case, as against every HCMLP Released Party, (b) to file an agreed motion and proposed order to partially vacate the final judgment entered against Daugherty

in the Texas Action, (c) withdraw HCMLP's objection to the Daugherty motion to recuse in the Texas Action, and (d) to dismiss the Adversary Proceeding with prejudice. The parties shall file the foregoing motions and withdrawals substantially in the form of the documents annexed hereto as **Exhibit B**.

12. Additional Third Party Claims Discovery: The Debtor (a) shall accept service of any subpoenas via email served by Daugherty in connection with the Delaware Cases on behalf of itself, the HCMLP Entities, the HCMLP Parties (but only in their capacity as employees of HCMLP); and (b) acknowledge and consent to the jurisdiction of the Delaware Chancery Court for purposes of enforcing any such subpoenas, subject in all respects to the rights that the HCMLP Entities and HCMLP Parties to defend the requested production, if any.

13. Settlement of Third Party Claims: Daugherty shall not settle any claims or causes of action against any current or former director, officer, employee, agent or representative of HCMLP or Strand Advisors Inc. (collectively, the "Potentially Indemnified Parties") to the extent such claims have been brought or could have been brought against any Potentially Indemnified Parties, if any such settlement designates, defines or describes the settled claims as arising out of or relating to simple negligence or as having otherwise been within the scope of employment of the Potentially Indemnified Party.

14. Claims Register: As soon as practicable after the Settlement Effective Date, HCMLP shall instruct the claims agent in the Debtor's chapter 11 case to adjust the claims register in accordance with this Settlement.

15. Daugherty Representations: Daugherty represents and warrants to each of the HCMLP Released Parties that (a) he has full authority to release the Daugherty Released Claims and has not sold, transferred, or assigned any Daugherty Released Claim to any other person or

entity and that (b) no person or entity other than Daugherty has been, is, or will be authorized to bring, pursue, or enforce any Daugherty Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) Daugherty.

16. HCMLP Representations: Each of HCMLP and each HCMLP Released Party who has signed this Settlement represents and warrants to Daugherty that (a) he, she or it has not sold, transferred, pledged, assigned or hypothecated any HCMLP Released Claim to any other person or entity and (b) he, she, or it has full authority to release any HCMLP Released Claims that such HCMLP Released Party personally has against Daugherty.

17. Additional HCMLP Representations: HCMLP represents and warrants that it is releasing the HCMLP Released Claims on behalf of the HCMLP Entities to the maximum extent permitted by any contractual or other legal rights HCMLP possesses. To the extent any of the HCMLP Entities dispute HCMLP's right to release the HCMLP Released Claims on behalf of any of the HCMLP Entities, HCMLP shall use commercially reasonable efforts to support Daugherty's position, if any, that such claims were released herein. For the avoidance of doubt, HCMLP will have no obligations to assist Daugherty under this paragraph if HCMLP has been advised by external counsel that such assistance could subject HCMLP to liability to any third party or if such assistance would require HCMLP to expend material amounts of time or money. HCMLP shall not argue in any forum that the non-signatory status of any of the HCMLP Entities to this Settlement shall in any way affect the enforceability of this Settlement vis-à-vis any of the HCMLP Entities. The Parties agree that all of the HCMLP Entities are intended third-party beneficiaries of this Release.

18. HCMLP Covenant: HCMLP and the HCMLP Entities covenant and agree that they will not pursue or seek to enforce any injunctions entered in the Texas Action against

Daugherty.

19. Entire Agreement; Modification: This Settlement contains the entire agreement between the Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between the Parties. This Settlement may not be modified other than by a signed writing executed by the Parties.

20. Bankruptcy Court Approval: Notwithstanding anything to the contrary contained herein, the effectiveness of HCMLP and the Claimant Trust's execution of this Settlement shall be subject to entry of an order of the Bankruptcy Court approving this Settlement. HCMLP shall take all steps necessary to file with the Bankruptcy Court a motion for an order approving this Settlement pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code (the "Motion"). The parties agree to cooperate in the preparation and prosecution of the Motion which shall be filed no later than 5 business day after execution of this Settlement, unless such time is extended by mutual agreement.

21. Counterparts: This Settlement may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument and shall be effective against a Party or Additional Released Party upon approval of the Settlement by the Bankruptcy Court.

22. Governing Law; Jurisdiction: This Settlement will be exclusively governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles, and all claims relating to or arising out of this Settlement, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of Delaware, excluding Delaware's conflicts of law principles. The Bankruptcy Court will retain exclusive jurisdiction over all disputes relating to this Settlement.

23. Headings: Paragraph headings included herein are for convenience and shall have no impact whatsoever on the meaning or interpretation of any part of this Settlement.

[Remainder of page intentionally left blank]

In witness whereof, the parties hereto, intending to be legally bound, have executed this Settlement as of the day and year set forth below:

Dated: 11-24-21

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND CLAIMANT TRUST

By: _____
Name: James P. Seery, Jr.
Title: Claimant Trustee

PATRICK HAGAMAN DAUGHERTY

Dated: 11/22/21

By: _____
Name: Patrick Hagaman Daugherty

EXHIBIT A

HERA RELEASE AGREEMENT

This HERA Release Agreement ("HERA Release Agreement") is entered into as of November 21, 2021 by and among Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), Patrick Hagaman Daugherty ("Daugherty"), Highland Employee Retention Assets, LLC ("HERA") and Highland ERA Management, LLC ("ERA" and together with HCMLP, and HERA, the "Parties," and individually as a "Party").

WHEREAS, reference is hereby made to the Settlement Agreement (the "Settlement") of even date herewith and attached hereto made and entered into by and between the Debtor, the Highland Claimant Trust, and Daugherty.

WHEREAS, the Settlement settles all of Daugherty's claims against the HCMLP Released Parties, including all claims against the HCMLP Released Parties relating to transfers of assets from HERA.

WHEREAS, the Settlement includes, among other things, the transfer by HCMLP to Daugherty of HCMLP's interests in HERA and ERA.

WHEREAS, under the Settlement such transfer is being made without any liability to any of the HCMLP Released Parties of any type and is conditional on the full release of, and covenant not to sue, each of the HCMLP Released Parties, by and from HERA, ERA, Daugherty and the Daugherty Released Parties.

WHEREAS, neither HERA nor ERA filed proofs of claim in the Bankrupty and have no claims against HCMLP.

WHEREAS, out of an abundance of caution to confirm that HERA, ERA, Daugherty, and the Daugherty Released Parties have no claims against the HCMLP Released Parties, this HERA Release Agreement is being entered into contemporaneously with the Settlement and constitutes an

essential part thereof.

WHEREAS, capitalized terms used herein but not otherwise defined herein have the respective meanings set forth in the Settlement.

NOW, THEREFORE, in consideration of the entry into of the Settlement, the transfer of the equity interests in HERA and ERA to Daugherty in accordance with the Settlement, and for other good and valuable consideration, including the provisions set forth herein, the parties hereto further agree as follows:

1. Upon entry of an order of the Bankruptcy Court approving this Settlement and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Additional Release Parties, together with each of HERA and ERA (Daugherty, the Daugherty Additional Release Parties, HERA and ERA shall be collectively referred to herein as the "HERA Releasing Parties"), each hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, any of the HCMLP Released Parties for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, Highland Delaware Case, or the HERA Delaware Case (collectively, "Claims"), in each case that in any way arise from or otherwise in any way relate to HERA or ERA, including, without limitation, any actual or potential claims, whether known or unknown, in any way related to or

arising out of the formation, management, operation or assets of HERA, ERA or any of their respective predecessors or successors, including the transfer of any assets to or from HERA or ERA, it being understood that all remaining assets of HERA have been transferred to HCMLP prior to the date hereof, and in addition to the releases set forth above, each of the HERA Releasing Parties irrevocably waives and releases and covenants not to sue with respect to any Claims against any of the HCMLP Released Parties in any way related to any such transfers or assets, whether *in personam* with respect to the HCMLP Released Parties or *in rem* with respect to any of their assets (collectively, the "HERA Released Claims") or any other Disposition.

2. This Release constitutes a part of, and is supplemental to, the provisions of the Settlement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

In witness whereof, the parties hereto, intending to be legally bound, have executed this HERA Release Agreement as of the date set forth above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

PATRICK HAGAMAN DAUGHERTY

By: _____
Name: Patrick Hagaman Daugherty

HIGHLAND EMPLOYEE RETENTION ASSETS, LLC

By: Highland ERA Management, LLC, its manager

By: Highland Capital Management, LP

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND ERA MANAGEMENT, LLC

By: _____
Name: James P. Seery, Jr.
Title: Authorized Signatory

EXHIBIT B

CAUSE NO. 12-04005

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**IN THE DISTRICT COURT OF**
Plaintiffs,	§	
v.	§	
PATRICK DAUGHERTY,	§	
Defendant and Counter-Plaintiff,	§	**DALLAS COUNTY, TEXAS**
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	
Third-Party Defendants.	§	
	§	**68th JUDICIAL DISTRICT**

AGREED MOTION TO PARTIALLY VACATE THE FINAL JUDGMENT DATED JULY 14, 2014

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Highland Capital Management, LP ("Highland") and Defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties") file this *Agreed Motion to Partially Vacate the Final Judgment dated July 14, 2014* (the "Motion"), and respectfully show the following:

1. On July 14, 2014, this Court entered a *Final Judgment* (the "Judgment") that, among other things, granted Highland's motion for injunctive relief against Daugherty.

2. The Judgment was amended on March 23, and June 23, 2017.

3. On October 16, 2019, filed a petition under chapter 11 in the United States Bankruptcy Court for the District of Delaware ("Highland's Bankruptcy Case"). On October 24,

2019, as a result of the commencement of Highland's Bankruptcy Case, the Supreme Court of Texas issued an order abating a related case that Daugherty had brought in that court, Case No. 19-0758. Highland's Bankruptcy Case was subsequently transferred to the United States Bankruptcy Court for the Northern District of Texas.

4. Daugherty asserted certain claims against Highland in Highland's Bankruptcy Case. The Parties have fully and finally resolved their disputes pursuant to a settlement agreement (the "Settlement Agreement") reached in the Highland Bankruptcy Case pursuant to which, among other things, (a) all of Daugherty's known and unknown claims against each of the Highland Released Parties (as those terms are defined in the Settlement Agreement) are resolved, and (b) this Motion seeking the *vacatur* of certain provisions of the Judgment specifically set forth below is being filed.

5. Highland and Daugherty hereby agree and stipulate that the Court has plenary power to issue an order granting this Motion because the Court retained authority to enforce the permanent injunction rendered in the Judgment, and that changed circumstances have now arisen such that the Court should dissolve the permanent injunction. Highland and Daugherty further agree and stipulate that this Motion shall be treated as an agreement of the Parties pursuant to Texas Rule of Civil Procedure 11, and is fully enforceable. *See Coale v. Scott*, 331 S.W.3d 829, 831-32 (Tex. App.—Amarillo 2011, no pet.) ("Irrespective of whether a trial court lost its plenary jurisdiction over its judgment, the trial court's authority to approve a Rule 11 agreement does not depend on whether it has such jurisdiction.").

6. Highland and Daugherty agree that the following portions of the Judgment shall be vacated pursuant to their settlement in the Highland Bankruptcy:

a. The second full paragraph on Page 2 of the Judgment, which begins "The Court, after considering the jury's findings regarding Daugherty's breaches of contract and breaches of fiduciary duty . . .";

b. The permanent injunction rendered against Daugherty in the third full paragraph on Page 2 of the Judgment, which begins "It is therefore further ORDERED that Daugherty be and hereby is commanded to cease and desist from . . .";

c. The fourth and fifth full paragraphs on Page 2 of the Judgment awarding Highland a monetary judgment against Daugherty for reasonable and necessary attorney's fees, as well as post-judgment interest on that award[1]; and

d. The jury's answers to Questions 1, 2, 5, 6, 9 and 12 in the Verdict, which was attached as Exhibit 1 to the Judgment.

7. Highland and Daugherty further agree that, as a result of the vacation of the permanent injunction in the Judgment, Highland hereby withdraws any pending motions to show cause or motions for contempt against Daugherty that allege Daugherty violated or is violating the permanent injunction. Highland also agrees not to seek to enforce the permanent injunction in any manner in the future.

[1] Daugherty previously satisfied the monetary judgment awarded to Highland, and Highland filed a release of the monetary judgment. Although Highland and Daugherty have agreed to vacate the monetary judgment awarded to Highland, Daugherty waives and relinquishes any right or claim to recover any amount previously paid in satisfaction of the Judgment and Highland shall not be required to reimburse Daugherty for his prior satisfaction of the monetary judgment. To the extent Daugherty is entitled to indemnification for any liabilities, losses, and damages allegedly incurred by him for actions taken in connection with Highland's business, including the liabilities Daugherty allegedly incurred in connection with this action and the Judgment, such indemnification claims have been fully and finally satisfied and resolved under the Settlement Agreement.

8. Concurrent with the filing of this Motion, Daugherty will file a motion to dismiss his as-yet unfiled petition for review pending before the Supreme Court of Texas under Case No. 19-0758.

9. Highland and Daugherty further agree that any portions of the Judgment that are not specifically vacated pursuant to this Motion shall remain in full force and effect.

WHEREFORE, Highland and Daugherty pray that the Court grant this Motion in its entirety, and for all further relief, at law or in equity, the Court deems necessary.

Respectfully submitted,

GRAY REED & McGRAW LLP

By: */s/ Sonya D. Reddy*
ANDREW K. YORK
State Bar No. 24051554
E-mail: dyork@grayreed.com
SONYA D. REDDY
State Bar No. 24079188
E-mail: sreddy@grayreed.com

1601 Elm Street, Suite 4600
Dallas, Texas 75201
(214) 954-4135
(214) 953-1332 (Fax)

ATTORNEYS FOR PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been transmitted by electronic transmission to all counsel of record on February ___, 2021, as follows:

Marc D. Katz
Crystal J. Woods
DLA PIPER LLP (US)
1717 Main St., Suite 3700
Dallas, Texas 75201
214-743-4545 (Fax)
marc.katz@dlapiper.com
crystal.woods@dlapiper.com

Attorneys for Highland Capital Management, L.P.

Michael K. Hurst
A. Shonn Brown
Jonathan Childers
LYNN PINKER COX HURST, LLP
2100 Ross Ave., Suite 2700
Dallas, Texas 75201
(214) 981-3839 (Fax)
mhurst@lynnllp.com
sbrown@ lynnllp.com
jchilders@ lynnllp.com

Attorneys for Third-Party Defendants HERA, Patrick Boyce, and William Britain

/s/ Sonya D. Reddy
SONYA D. REDDY

APPENDIX A (signatures to follow)

1. James P. Seery, Jr.
2. Cameron Baynard
3. Nathan Burns
4. Timothy Cournoyer
5. Naomi Chisum
6. Stetson Clark
7. Sean Fox
8. Matthew Gray
9. Kristin Hendrix
10. David Klos
11. Vishal Patel
12. Thomas Surgent
13. Michael Throckmorton

EXHIBIT 2

HIGHLAND CAPITAL MANAGEMENT

February 3, 2018

By Mail and Electronic Mail

Patrick Daugherty
3621 Cornell Ave
Dallas, TX 75205
phdaugherty@gmail.com

Re: Field Examiners' Proposed Tax Adjustments – 2008 Tax Year
Highland Capital Management, L.P.

Dear Patrick,

As previously advised, a team of IRS field examiners ("Exam") conducted an audit of the 2008 partnership tax return filed on behalf of Highland Capital Management, L.P. ("Highland"). Exam concluded their audit and have proposed an adjustment to the 2008 return.

We have enclosed with this letter the following items: (a) IRS Form 886-Z except -A, and (b) IRS Form 870-PT. *At this time, no action on your part is required with respect to these documents unless you wish to agree to Exam's proposed adjustments – which we do not recommend.*

Exam has scheduled a closing conference on March 2, 2018. You do not need to attend the closing conference. Please let us know by the close of business on February 15, 2018 if you wish to attend. Highland will handle the closing conference (unless waived) and appeal the proposed adjustment to the IRS Appeals Office after the conference.

Please contact me at 972-419-4438 if you have any questions.

Regards,

Brian Collins
Director of Human Resources
Highland Capital Management, L.P.

Enclosures

EXHIBIT 3

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio income (loss) net short-term gain (loss) (4)	 (5)
[redacted]				

Continuation

TIN of Partner (6)	 (7)	 (8)	 (9)	 (10)	 (11)
[redacted]					
Totals					

This form only reflects Schedule K-1 items adjusted by the report dated: _____

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio income (loss) net short-term gain (loss) (4)	(5)
[redacted]				
Daugherty, Patrick 3621 Cornell Ave. Dallas, TX 75205	452-94-7373	0.74030000%	1,257,792.00	
[redacted]				

Continuation

[redacted]					
Totals					

This form only reflects Schedule K-1 items adjusted by the report dated: _____

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065
Name of Partnership: Highland Capital Management	TIN of Partnership: 75-2716725	Taxable Year Ended: 12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio income (loss) net short-term gain (loss) (4)	(5)
[redacted]				

Continuation

[redacted]					
Totals					

This form only reflects Schedule K-1 items adjusted by the report dated: _____

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio income (loss) net short-term gain (loss) (4)	 (5)
[redacted]				
Totals		100.00000000%	169,902,949.00	

Continuation

[redacted]

This form only reflects Schedule K-1 items adjusted by the report dated: _____

EXHIBIT 4

Form 870-PT (Rev. 4-2012) For partnership taxable years ending after August 5, 1997	Department of the Treasury — Internal Revenue Service **Agreement for Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts**	IN REPLY REFER TO:

Taxpayer(s) name(s), address and zip code:	Name of Partnership:	Tax Year(s) Ended:
Daugherty, Patrick 3621 Cornell Ave. Dallas, TX 75205	Highland Capital Management EIN: 75-2716725	12/31/2008
TIN: 452-94-7373	Name of Tax Matters Partner: Strand Advisors, Inc.	

Offer of Agreement to Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts & Waiver of Restrictions on Assessment for Partnership Items, Penalties, Additions to Tax, and Additional Amounts

Under the provisions of sections 6224(c) and 7121 of the Internal Revenue Code (IRC), the Commissioner of the Internal Revenue Service and the undersigned taxpayer(s) agree to the determination of partnership items and partnership level determinations as to penalties, additions to tax, and additional amounts that relate to adjustments to partnership items as shown on the attached Schedule of Adjustments.

The undersigned taxpayer(s), in accordance with IRC sections 6224(b) and 6213(d), also waive(s) the restrictions provided by IRC sections 6225(a) and 6213(a) and consent(s) to the assessment and collection of any deficiency attributable to partnership items, penalties, additions to tax, and additional amounts that relate to partnership items, as set forth in the attached Schedule of Adjustments (plus any interest provided by law). IRC Section 6651 late filing penalty applies to any late filed (or non-filed) returns that are required to report the partnership item adjustments.

This agreement is conditional and will not become effective or final until this agreement form is returned to the Commissioner and is signed on his or her behalf. The one-year extension of the period of limitations on assessments under IRC section 6229(f) will not begin to run until the date the Commissioner's representative signs this form on the Commissioner's behalf. If this is a partial agreement, the period of limitations for assessing any tax attributable to the settled items shall be determined as if this agreement had not been entered into.

If this part of this agreement form is signed for the Commissioner, the treatment of partnership items and partnership level determinations as to penalties, additions to tax and additional amounts that relate to adjustments to partnership items under this agreement will not be reopened in the absence of fraud, malfeasance, or misrepresentation of fact. In addition, no claim for an adjustment of partnership items, refund or credit based on any change in the treatment of partnership items or partnership level determinations as to penalties, additions to tax, and additional amounts may be filed or prosecuted.

Once the taxpayer signs such a waiver and it is countersigned by the Commissioner, the taxpayer cannot file an Administrative Adjustment Request (AAR) on any partnership items for the related TEFRA entity. This includes partnership items not specifically addressed on the attached Schedule of Adjustments.

Signature of Taxpayer	Date Signed	Phone Number
Signature of Taxpayer	Date Signed	Phone Number
By (Signature and Title)	Date Signed	Phone Number

FOR INTERNAL REVENUE USE ONLY	Date accepted for Commissioner	Signature
	Office	Title

INSTRUCTIONS FOR SIGNING FORM 870-PT

1. Sign the agreement if you wish to agree to the partnership items *and partnership level determinations as to penalties, additions to tax, and additional amounts*, as shown on the attached Schedule of Adjustments. The execution and filing of this offer will expedite the adjustment of tax liability.

2. If a JOINT RETURN OF A HUSBAND AND WIFE was filed and both spouses intend to agree, both spouses should sign Form 870-PT. One spouse may sign as agent for the other if acting under a power of attorney, which, if not previously filed, must accompany this form. The IRS may accept the signature of only one spouse at its discretion. However, the agreement will only be binding on the signing spouse.

3. If the taxpayer is a corporation, the agreement should be signed with the corporate name followed by the signature and title of the officer authorized to sign Form 870-PT.

4. Your attorney or agent may sign for you if this action is specifically authorized by a power of attorney, which if not previously filed, must accompany this form.

5. If this offer is signed by a trust, the agreement must be signed with the trust name, followed by the signature and title of the person authorized to sign on behalf of the trust. If the trustee is signing this agreement on behalf of the trust and all beneficiaries, a Form 56 must be signed by the trustee. If an individual beneficiary is signing the agreement to bind themselves to the agreement, no Form 56 is needed.

6. If the partner is an LLC, the agreement should be signed by the manager of the LLC or other authority as authorized by State law. The signature line should show: [Name of LLC], by [Name of Manager], Followed by the title [Manager].

7. For a partner who is a subsidiary corporation in a consolidated group:

   - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, the agreement should be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The common parent corporation signs the agreement in its own name. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a).

   - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement and should do so in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(6)(iii). The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block. The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.

8. For a partner who is the common parent corporation of a consolidated group, a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year(s) should sign the agreement in the name of the common parent corporation. See Treas. Reg. § 1.1502-77(a).

9. If the Tax Matters Partner signs this offer, please include the title with the signature.

10. If the Tax Matters Partner is a subsidiary corporation in a consolidated group:

    - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, then a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year should sign the agreement on behalf of the Tax Matters Partner. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a). An authorized officer for the subsidiary corporation should also sign if it, as the Tax Matters Partner, is binding non-notice partners under the agreement. The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block

    - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(3)(v). The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.

NOTE: The submission of this offer by you and the acceptance of the offer for the Commissioner may result in an additional tax liability to you plus interest as provided by law. If the result is a decrease in tax, the amount of the decrease will be sent to you with interest as provided by law.

Department of the Treasury — Internal Revenue Service

Agreement for Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts

SCHEDULE OF ADJUSTMENTS

NAME OF PARTNERSHIP: Highland Capital Management EIN: 75-2716725	TAX YEAR(S) ENDED		
	12/31/2008		
DETAIL OF ADJUSTMENTS TO ORDINARY INCOME:			
a.			
b.			
c.			
d.			
e.			
f.			
g.			
TOTAL ADJUSTMENTS TO ORDINARY INCOME			
OTHER ADJUSTMENTS			
A. Portfolio income (loss) net short-term gain (loss)			
(1) ADJUSTMENT	166,332,713.00		
(2) AS REPORTED	3,570,236.00		
(3) CORRECTED	169,902,949.00		
(1) ADJUSTMENT			
(2) AS REPORTED			
(3) CORRECTED			

REMARKS:

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adv. Proc. No. 25-03055-sgj

CERTIFICATE OF SERVICE

I, Ronaldo Lizarraga Angulo, depose and say that I am employed by Kurtzman Carson Consultants, LLC dba Verita Global ("Verita"), the claims and noticing agent for the Reorganized Debtor in the bankruptcy case of *Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N.D. Tex).

On July 18, 2025, at my direction and under my supervision, employees of Verita caused the following documents to be served via Electronic Mail upon the service lists attached hereto as **Exhibit A**:

- **Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024** [Docket No. 9]

- **Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024** [Docket No. 10]

[1]Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

- **Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024** [Docket No. 11]

Dated: July 28, 2025

/s/ *Ronaldo Lizarraga Angulo*
Ronaldo Lizarraga Angulo
Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

EXHIBIT A

Exhibit A

Adversary Proceeding Service List

Served via Electronic Mail

Description	CreditorName	CreditorNoticeName	Email
Counsel to Patrick Daugherty	Gray Reed	Jason S. Brookner, Andrew K. York, Joshua D. Smeltzer, Drake M. Rayshell	jbrookner@grayreed.com; dyork@grayreed.com; jsmeltzer@grayreed.com; drayshell@grayreed.com
Counsel for the Debtor	Hayward & Associates PLLC	Melissa S. Hayward, Zachery Z. Annable	MHayward@HaywardFirm.com; ZAnnable@HaywardFirm.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Richard M. Pachulski, Jeffrey N. Pomerantz, Ira D. Kharasch, James E. O'Neill, Robert J. Feinstein, John A. Morris, Gregory V. Demo	rpachulski@pszjlaw.com; jpomerantz@pszjlaw.com; ikharasch@pszjlaw.com; joneill@pszjlaw.com; rfeinstein@pszjlaw.com; jmorris@pszjlaw.com; gdemo@pszjlaw.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Robert Joel Feinstein, Hayley R. Winograd, Judith Elkin, Jordan A Kroop, Robert J Feinstein	rfeinstein@pszjlaw.com; hwinograd@pszjlaw.com; jelkin@pszjlaw.com

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

COUNSEL TO PATRICK DAUGHERTY

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

NOTICE OF HEARING ON (A) PATRICK DAUGHERTY'S MOTION TO DISMISS, AND (B) HIGHLAND CAPITAL MANAGEMENT, L.P.'S RELATED CROSS MOTION

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

PLEASE TAKE NOTICE that the following matters have been scheduled for hearing on **Thursday, September 4, 2025, at 9:30 a.m. (Central Time)** (the "Hearing") in the above-captioned adversary proceeding (the "Adversary Proceeding"):

1. *Patrick Daugherty's Motion to Dismiss [Docket No. 5]* (the "Motion").
2. *Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 [Docket No. 10]* (the "Cross Motion" and together with the Motion, the "Motions").

A Hearing on the Motions will be held via WebEx videoconference before The Honorable Stacey G. C. Jernigan, United States Bankruptcy Judge. The WebEx video participation/attendance link for the Hearing is: https://uscourts.webex.com/meet/jerniga.

A copy of the WebEx Hearing Instructions for the Hearing is attached hereto as **Exhibit A**; alternatively, the WebEx Hearing Instructions for the Hearing may be obtained from Judge Jernigan's hearing/calendar site at https://www.txnb.uscourts.gov/judges-info/hearing-dates/chief-judge-jernigans-hearing-dates.

Respectfully submitted this 30th day of July, 2025.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

COUNSEL TO PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on all parties or counsel of record herein on this 30th day of July, 2025, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

COUNSEL TO PATRICK DAUGHERTY

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

AMENDED NOTICE OF HEARING ON
(A) PATRICK DAUGHERTY'S MOTION TO DISMISS, AND
(B) HIGHLAND CAPITAL MANAGEMENT, L.P.'S RELATED CROSS MOTION

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

PLEASE TAKE NOTICE that the following matters have been scheduled for hearing on **Thursday, September 4, 2025, at 9:30 a.m. (Central Time)** (the "Hearing") in the above-captioned adversary proceeding (the "Adversary Proceeding"):

1. *Patrick Daugherty's Motion to Dismiss [Docket No. 5]* (the "Motion").
2. *Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 [Docket No. 10]* (the "Cross Motion" and together with the Motion, the "Motions").

A Hearing on the Motions will be held via WebEx videoconference before The Honorable Stacey G. C. Jernigan, United States Bankruptcy Judge. The WebEx video participation/attendance link for the Hearing is: https://uscourts.webex.com/meet/jerniga.

A copy of the WebEx Hearing Instructions for the Hearing is attached hereto as **Exhibit A**; alternatively, the WebEx Hearing Instructions for the Hearing may be obtained from Judge Jernigan's hearing/calendar site at https://www.txnb.uscourts.gov/judges-info/hearing-dates/chief-judge-jernigans-hearing-dates.

Respectfully submitted this 31st day of July, 2025.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

COUNSEL TO PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on all parties or counsel of record herein on this 31st day of July, 2025, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT A

JUDGE STACEY G. JERNIGAN

WebEx Meeting Link:
https://us-courts.webex.com/meet/jerniga

WebEx Teleconference Information:
Dial-in 650-479-3207 Access Code 2304 154 2638

NOTICE OF HEARING CONTENT AND FILING REQUIREMENTS

For remote and hybrid hearings in Judge Jernigan's court, the notice of hearing must (1) advise case participants that appearances by WebEx are permitted, (2) include notice of the WebEx Meeting Link https://us-courts.webex.com/meet/jerniga, and (3) refer participants to Judge Jernigan's webpage at https://www.txnb.uscourts.gov/judges-info/hearing-dates/chief-judge-jernigans-hearing-dates for WebEx Hearing Instructions and Helpful Hints and Etiquette. When filing the notice of hearing in ECF, the filer should select https://us-courts.webex.com/meet/jerniga as the hearing location for all remote and hybrid hearings. Select the hearing location *Dallas Judge Jernigan Ctrm* only if participants are **required** to attend in person.

WEBEX HEARINGS – CONNECTION INSTRUCTIONS

Please connect at least 10 minutes prior to the hearing time using one of the two options below. It is recommended that attorneys discuss the logistics of the WebEx appearance with their clients/witnesses at least 48 hours prior to the hearing.

Option 1: Using the WebEx app on your smartphone, tablet, laptop, or desktop.

- It is strongly preferred that participants who wish to speak during a hearing use the WebEx application rather than using the "call-in" option described in Option 2.
- Attorneys offering legal argument or conducting examination and all witnesses are required to utilize the video function. The Court may consider special requests for other appearance options on a case-by-case basis.
- Please connect using only one device. Using two or more devices may cause audio feedback issues.
- If using a smartphone or tablet for video, it should be set in a stationary position. Holding a phone or tablet in your hand while speaking does not yield a good video for the Court or other participants.

NOTE: If you are experiencing audio issues when using the WebEx application, you may use the "Call Me" selection under "Audio Connection" to move just the audio portion of the WebEx conference to your telephone.

Option 2: Call-in via phone (audio only).
The meeting number/access code and dial-in number can be found on the attached WebEx Connection Information. Please use *6 or the mute function on your smartphone to mute your line.

HELPFUL HINTS AND ETIQUETTE

• Please use the mute function when you are not speaking. Please be aware that sometimes the Court mutes everyone when there is background noise. When you want to speak, make sure you are not muted. Call-in users should dial *6 to unmute your line.

• Remember to state your name for the record each time before speaking and speak slowly and clearly so the Court can get a good record. Also, use your proper name on your device or for your WebEx login when participating over video, so that the Court can more easily determine who is speaking.

• Use headphones whenever possible, especially if using a desktop PC with external speakers. We have found that newer iPhones provide the best visual and audio feed – better than most desktop computers. If you are on a personal computer, headphones or earbuds are required for those who need to speak during the hearing.

• During examination, attorneys and witnesses should use a separate camera and microphone when possible. To avoid feedback, parties using separate devices must not be in the same room. The Court may consider special requests on a case-by-case basis.

• WebEx participants may use the "share" button to easily share their screen or document with the Court or other WebEx participants. Press “stop sharing” to remove the presentation from the meeting.

• When making an appearance from a vehicle, please park in a safe location with windows rolled up (to minimize background distraction and noise) and use a headset that is ear-to-phone (not the vehicle’s hands-free speaker-phone option).

• Suggestions for participating in a WebEx hearing from home: If you are having connectivity problems, turn off devices that may be using bandwidth on your home network. Devices or applications such as Facetime, Roku, streaming media players, video games, or large downloads can negatively impact the audio and video quality of the WebEx meeting.

• Participants are reminded that they should wear attire suitable for court.

• Participants who wish to test their WebEx connection or the share screen functionality in advance of the hearing may arrange a “practice run” by contacting the courtroom deputy at sgj_settings@txnb.uscourts.gov.

EXHIBITS AND DEMONSTRATIVE AIDS

Exhibits should be filed ahead of time by the date that they would normally be exchanged pursuant to our local rules using the "notice" or "list (witness/exhibit/generic)" event in ECF, with a true and correct copy of each designated exhibit filed as a separate, individual attachment, so that the Court and all participants have ready access to all designated exhibits. For voluminous exhibits, please provide the Court with two exhibit notebooks in advance of the hearing. For any witness who is to be called to testify remotely, the party calling the witness is responsible for supplying the witness or counsel, as appropriate, with paper copies of all designated exhibits prior to the hearing.
Demonstrative aids and PowerPoints should also be filed prior to the hearing, if possible. If not, WebEx has the ability to allow you to share your screen, or a particular document, with everyone in the hearing. If these documents are admitted as exhibits, they would then have to be filed after the hearing.

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S (A) REPLY IN SUPPORT OF HIS MOTION TO DISMISS AND (B) RESPONSE TO PLAINTIFF'S CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Defendant Patrick Daugherty ("Daugherty") files this Reply in support of his Motion to Dismiss Plaintiff's Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) (incorporated herein by Fed. R. Bankr. P. 7012(b)) for failure to state a claim upon which relief may be granted, and this Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024.

I. SUMMARY

1. Plaintiff's Objection is a tortured, and ultimately unsuccessful, attempt to avoid the terms of the Settlement Agreement it voluntarily negotiated. It also fails to credibly contest the unambiguous admissions in Plaintiff's Complaint: that the IRS Audit Dispute[2] remains unresolved. In fact, the Objection does not even argue the Complaint's factual allegations plead a cognizable claim for relief.

2. Tellingly, the Objection fails to keep Plaintiff's story straight. At one point Plaintiff admits Daugherty's Reserved Claim is still "unresolved at this time[.]" *See Highland Capital Management, L.P.'s (A) Objection to Partick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief From a Final Order Pursuant to Bankruptcy Rule 9024* [Docket No. 10] (the "Objection") at ¶ 5. In other parts of the Objection, Plaintiff claims the IRS ***may*** have made a final determination. *Id.* at ¶ 2 (stating Plaintiff "believes" the IRS made a final determination); *id.* at ¶ 15 (asserting Plaintiff recently found "information suggesting" the IRS made a final

[2] All capitalized terms used but not herein defined shall have the meanings ascribed to them in the Settlement Agreement at Main Case Docket No. 3089, Daugherty's Motion to Dismiss or Plaintiff's Objection.

determination). In support, Plaintiff relies on its own records to contend the final determination occurred ***three years before*** Plaintiff and Daugherty entered into the Settlement Agreement.

3. Plaintiff's fumbling attempt to characterize the IRS's final determination (or not) of the IRS Audit Dispute is a tacit concession that the Stay Provision of the Settlement Agreement controls. A fact bolstered by Plaintiff's complete failure to answer a simple, logical question: if the IRS had issued a final determination in 2018, then what was the need to reserve the claim in the Settlement Agreement?

4. Realizing its argument lacks a supportable premise, Plaintiff pivots to a Hail Mary: a cross-motion asking the Court to relieve Plaintiff from the Stay Provision in its bargained-for Settlement Agreement.[3] The Court should reject this request for several reasons. The parties clearly contemplated at the time they entered into the Settlement Agreement that final resolution of the IRS Audit Dispute was indeterminate. Plaintiff's failure to negotiate an end-date in the Settlement Agreement is its own fault. Plaintiff also claims the current circumstances were "unforeseen."[4] Mutual mistake, however, is not an "extraordinary circumstance" that justifies Court intervention under Rule 60(b)(6). Most importantly, Plaintiff obtained the benefits of the Stay Provision via multiple tolling agreements that extended Plaintiff's deadline to object to Daugherty's Reserved Claim. Plaintiff is therefore estopped from now trying to eliminate the same

[3] Indeed, supporting the bargained-for nature of the settlement, in seeking court-approval of the Settlement Agreement, Plaintiff stated: "[T]he Settlement agreement was unquestionably negotiated at arm's length. The Terms of the settlement are the result of numerous, ongoing discussions and negotiations between the parties and represent neither party's 'best case scenario.'" [Main Case Docket No. 3088 at ¶ 48].

[4] Plaintiff's claim is problematic given the Court's comments during the parties' November 17, 2020 hearing on Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes [Main Case Docket No. 1281 in Case 19-34054-sgj], where the Court commented with respect to Daugherty's Reserved Claim: "down the road we may get to a point where it's not contingent, the IRS has finished doing what it's going to do, and we may get to a point where we think the result is appropriate." [Main Case Docket No. 1426 in Case 19-34054-sgj at 85:16-19]. While that point in time has yet to come, it is hardly something "unforeseen." [*See also generally id.* at 46:16-48:22].

provision in the Settlement Agreement. Accordingly, Plaintiff's cross-motion should be denied, and the Complaint dismissed.

II. LEGAL STANDARD

5. To survive a motion to dismiss under Rule 12(b)(6), Plaintiff must assert a theory that could entitle it to relief. Fed. R. Civ. P. 12(b)(6). In support of that theory, a complaint must allege "sufficient factual matter" that, taken as true, "state[s] a claim for relief [that] is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Plaintiff must establish more than a "sheer possibility that a defendant has acted unlawfully." *Id.* This Court need not accept as true legal conclusions or conclusory factual allegations. *Id.* "[W]hen the allegations in a complaint, however true, could not raise a claim of entitlement to relief, this basic deficiency should be exposed at the point of minimum expenditure of time and money by the parties and the court." *U.S. ex rel. Bennett v. Medtronic, Inc.*, 747 F. Supp. 2d 745, 761 (S.D. Tex. 2010) (quoting *Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007)) (cleaned up).

III. ARGUMENT

A. The Complaint still fails to allege a plausible claim.

6. Plaintiff first contends that it "recently also found information suggesting that the 'IRS [made] a final determination with respect to the IRS audit dispute.'" Objection at ¶ 15. It points to three documents from Plaintiff's own records that were purportedly sent to Daugherty on or about February 3, 2018. *Id.* at ¶ 16 and Morris Exhibits 2-4. This argument fails for multiple reasons.[5]

[5] The Court also should decline to consider Morris Exhibits 2-4 because they are used in a manner inconsistent with the Complaint's factual allegations. While a plaintiff "has much more flexibility in opposing a Rule 12(b)(6) motion," any elaborations or extrinsic evidence must be consistent with the pleadings. *Kinnie Ma Indiv. Retirement Acct. v. Ascendant Capital, LLC*, Cause No. 1:19-CV-1050-LY, 2021 WL 11962856, at *1 (W.D. Tex. Aug. 25, 2021) (quoting *Geinosky v. City of Chicago*, 675 F.3d 743, 745 n. 1 (7th Cir. 2012)). The Complaint alleges the IRS Audit is not final. Plaintiff attempts to use the Morris Exhibits 2-4 to argue that the exact opposite. Notwithstanding the

7. First, Plaintiff's letter to Daugherty makes clear that the "IRS field examiners" did not reach a "final determination". Rather, they simply "proposed an adjustment" to Plaintiff's 2008 tax return. Morris Exhibit 2. The letter also makes clear that Plaintiff and Daugherty could accept or reject the proposed adjustment — and Plaintiff recommended Daugherty not agree to the proposed adjustments. *Id.* Moreover, the letter states that Plaintiff would "handle the closing conference . . . and appeal the proposed adjustment to the IRS Appeals Office after the conference." *Id.* Nothing in the letter or IRS forms establishes that the IRS had made a "final determination" with respect to the IRS audit dispute.

8. Second, Plaintiff argues the ***February 2018*** letter and attached IRS forms ***suggest*** the IRS reached a final determination. But that argument is belied by the ***November 2021*** Settlement Agreement. The parties expressly provided that Daugherty's Reserved Claim "shall be stayed *until the IRS makes a final determination with respect to the IRS Audit Dispute*." Settlement Agreement at ¶ 9. If the IRS had already made a final determination in February 2018, then there would be no need for Plaintiff and Daugherty to include the Stay Provision in the Settlement Agreement.

9. The parties' effectuation of the Settlement Agreement also acknowledged the IRS audit was not final. On July 27, 2022, the parties entered a Tolling Agreement Extending Claim Objection Deadline. [Main Case Docket No. 4255-60 in Case 19-34054-sgj].[6] The parties

---

contradiction, the Court also has discretion not to consider matters outside the pleadings that are submitted in opposition to a 12(b)(6) motion. *Tremont LLC v. Halliburton Energy Servs., Inc.,* 696 F.Supp.2d 741, 751 (S.D. Tex. 2010).

[6] As Daugherty pointed out in his Motion to Dismiss, the Court may take judicial notice of its own records. *E.g., Biliouris as next friend of Biliouris v. Patman*, 751 Fed. App'x 603, 604 (5th Cir. 2019)("court may take judicial notice of the record in prior related proceedings"); *ITT Rayonier Inc. v. U.S.*, 651 F.2d 343, 345 n.2 (5th Cir. 1981)("court may… take judicial notice of its own records…"). Daugherty respectfully requests the Court take judicial notice of the Tolling Agreement filed by Plaintiff in the Main Case at Docket No. 4255-60 as it considers this Motion to Dismiss.

included recitals in the Tolling Agreement that there was an "absence of a resolution of the IRS Dispute" and "it is unknown when the IRS Dispute may be resolved". *Id.* at 4. Over the next three years the parties entered into three amendments to the Tolling Agreement. None of those amendments changed the characterization of the IRS Audit Dispute as unresolved. [Main Case Docket Nos. 4255-61 through 4255-63 in Case 19-34054-sgj].

10. Finally, the Objection fails to "wade into the thicket of arcane tax regulations" that eviscerate Plaintiff's argument. Objection at ¶ 3. Daugherty's Motion to Dismiss clearly explained how the IRS' proposed adjustment was not a final determination. Motion to Dismiss at ¶¶ 8-13. Plaintiff's intentional decision not to address those arguments is a tacit admission that the detailed explanation of the audit process in Daugherty's response established there was no final determination. The motion to dismiss did not, as Plaintiff claims, present meaningless arcane rules, or a thicket for the Court to wade through, but a clear legal standard that a dispute cannot be final until the allowed judicial review is concluded. These are established standards that both parties were aware of at the time of settlement. Any alleged inconvenience was known and accounted for by the parties during settlement negotiations and the resulting agreement.

11. In sum, the extrinsic evidence attached to Plaintiff's Objection fails to illustrate that the Complaint alleges any facts which give rise to plausible claims for relief against Daugherty. The Complaint and the Objection show Plaintiff filed this adversary proceeding before a final determination in the IRS Audit Dispute. As a result, all claims against Daugherty should be dismissed without prejudice pursuant to the Settlement Agreement.

B. Plaintiff's meritless Rule 60(b)(6) cross-motion should be denied.

i. Plaintiff improperly asks the Court to rewrite the parties' negotiated Settlement Agreement.

12. Rule 60(b)(6) is a "grand reservoir of equitable power" only when its use is necessary "to accomplish justice." *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 401 (5th Cir. 1981). Moreover, a motion for relief from a judgment is generally not favored and should only be granted upon a showing of exceptional circumstances. *United States v. Int'l Bhd. of Teamsters*, 247 F.3d 370, 391 (2nd Cir. 2001). Consistent with these principles, motions to reform or nullify settlements are disfavored precisely because settlements represent the parties' negotiated allocation of risk. *See Cashner v. Freedom Stores, Inc.*, 98 F.3d 572, 580 (10th Cir. 1996) (denying 60(b)(6) motion when "[d]efendants made a free, counseled, deliberate choice whose consequences in hindsight are unfortunate.") (citing *Pelican Prod. Corp. v. Marino*, 893 F.2d 1143, 1147 (10th Cir.1990)). Whatever inconvenience Plaintiff now faces is a direct consequence of a contractual risk it willingly accepted. Rule 60(b)(6) does not permit the Court to rescue a sophisticated party from the predictable results of its own bargain. *Yesh Music v. Lakewood Church*, 727 F.3d 356, 363 (5th Cir. 2013) ("Rule 60(b)(6) relief will not be used to relieve a party from the free, calculated, and deliberate choices he has made."); *S.E.C. v. Conradt*, 309 F.R.D. 186, 187-88 (S.D.N.Y. 2015) (refusing to utilized Rule 60(b)(6) to vacate defendants' settlement agreements that resulted in consent judgments after defendants' guilty pleas in a parallel proceeding were vacated).

13. Here, the Stay Provision was an integral term of a comprehensive, court-approved Settlement Agreement that resolved years-old disputes and provided Daughterty with certainty that he would not be forced to litigate until *after* the IRS Audit Dispute reached a final determination. Settlement Agreement, ¶ 9. Indeed, Plaintiff previously lauded the Settlement

Agreement as fair and reasonable when it sought approval of the same. [*See e.g.*, Main Case Docket No. 3088 at ¶¶ 41-48]. This Court also "found the Settlement Agreement fair and equitable". [Main Case Docket No. 3298 at 2]. Now Plaintiff asks the Court to ignore that finding and write out an essential term of the parties' agreement to avoid the consequence of its bargain.

14. However, the Settlement Agreement's terms and the parties' subsequent tolling agreements establish the parties clearly anticipated the possibility—if not, the likelihood—that the IRS Audit Dispute could drag on for years. Plaintiff could have negotiated a temporal backstop, but it did not. Instead, Plaintiff reserved all defenses while agreeing that "any litigation…shall be stayed" until the IRS reaches a final determination. Settlement Agreement, ¶ 9.

ii. Rule 60(b)(6) should only be utilized in the face of manifest injustice and extraordinary circumstances—not to relieve Plaintiff of its obligations under a court-approved Settlement Agreement.

15. Relief under Rule 60(b)(6) "requires a showing of manifest injustice and extraordinary circumstances." *Yesh Music*, F.3d at 363; *see also Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 864 (1988) (Rule 60(b)(6) should only be applied in "extraordinary circumstances"). "[E]xtraordinary circumstances rarely exist when a party seeks relief from a judgment that resulted from the party's deliberate choices." *Budget Blinds, Inc. v. White*, 536 F.3d 244, 255 (3rd Cir. 2008). It is clear that a party who is simply trying to escape the effects of a bargain it regretted in hindsight has not demonstrated exceptional circumstances sufficient to warrant relief under Rule 60(b)(6). *Coltec Indus., Inc. v. Hobgood*, 280 F.3d 262, 273 (3rd Cir. 2002).

16. Plaintiff claims "no one foresaw" the IRS may require more than five years to make a final determination when the Settlement Agreement was negotiated.[7] Objection at ¶ 5. And now, Plaintiff complains that dissolving the estate may take longer than it anticipated at the time Plaintiff entered into the Settlement Agreement. However, Plaintiff's failure does not amount to an extraordinary circumstance. To the contrary, Plaintiff's arguments show that it is trying to escape the effects of a bargain it now regrets in hindsight.[8] Daugherty should not bear the consequences of Plaintiff's regret,[9] nor should the Court cosign Plaintiff's attempt to circumvent the parties' Settlement Agreement.

iii. Equitable considerations defeat Plaintiff's bid to rewrite a deal from which it has already benefited.

17. Equity runs in Daugherty's favor. After the Court entered the Settlement Order, Plaintiff repeatedly invoked the Settlement Agreement to secure four separate tolling agreements, thereby extending its claim-objection deadline from August 11, 2023, to June 30, 2025. (Main Case Docket Nos. 4255-60 through 4255–63). Plaintiff cannot accept those substantial benefits and now disavow the agreement that enabled them. The doctrine of judicial estoppel prevents a party from "playing fast and loose with the courts" by taking inconsistent positions in successive

---

[7] To the extent Plaintiff now characterizes the Stay Provision as a "mutual mistake" (or even a "unilateral mistake") that contention is legally irrelevant. Fifth Circuit precedent makes clear that "mistake or inadvertence" is covered by subsections (1)–(3) of Rule 60(b), and must be raised within one year. Fed. R. Civ. P. 60(c)(1); *Seven Elves*, 635 F.2d at 401–02; *see also Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 393 (1993) (Rule 60(b)(1) covers mistake, inadvertence, surprise, or excusable neglect, and is subject to a one-year limitation). Plaintiff's motion—filed more than three years after the Settlement Order—comes far too late under those provisions and cannot be bootstrapped into subsection (6).

[8] This is particularly concerning, because Plaintiff previously stated, "the Settlement Agreement should be approved as a rational exercise of the Reorganized Debtor's business judgment made *after due deliberation of the facts and circumstances concerning Daugherty's Claim.*" [*See e.g.*, Main Case Docket No. 3088 at ¶ 48 (emphasis added)].

[9] Notably, at any time, Plaintiff could have negotiated an agreeable amendment to the Settlement Agreement with Daugherty to address its concerns. Instead, it chose to leave Daugherty in the dark and file this improper and meritless Adversary Proceeding in violation of the same.

proceedings. *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001) (judicial estoppel prevents a party from prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase). Having treated the Stay Provision as valid and enforceable for years, Plaintiff is estopped from contending otherwise now—especially since Plaintiff has reaped other substantive benefits under the Settlement Agreement.

18. Moreover, Daugherty relied on the Stay Provision when entering those tolling agreements, to set it aside now would be manifestly prejudicial. In equity, the Court should consider that the current position of the parties is a direct result of their bargaining and refuse to tilt the scale in Plaintiff's favor.

iv. Plaintiff's cross-motion lacks authority and should be denied.

19. Every authority that Plaintiff relies on in its Objection involves either (i) default judgments or (ii) impossibility caused by events wholly outside the parties' contractual framework—not an attempt to rewrite a settlement term chosen by the parties.

20. For example, in *Seven Elves*, relief was granted where defendants never received notice of trial and a $250,000 default judgment was entered. 635 F.2d at 399. Unlike here, there was no negotiated settlement, and the movants had no opportunity to present their case. In *Celtic Marine Corp. v. James C. Justice Companies, Inc.*, 593 F. App'x 300 (5th Cir. 2014), the court merely reduced the post-judgment interest rate because the contract lacked "clear, unambiguous" language. 593 F. App'x 300, 306. To the extent a settlement agreement was involved in the court's 60(b)(6) analysis, the ruling enforced, rather than voided, the settlement agreement. *Id.* at 302. In *Lindy Investments III v. Shakertown 1992, Inc.*, 360 F. App'x 510 (5th Cir. 2010), the district court vacated a decade-old money judgment where the plaintiffs' own post-judgment conduct—continuing to use allegedly defective shingles—made enforcement inequitable. 360 F. App'x 510.

Again, no settlement existed, and relief merely restored the pre-judgment status quo. In *In re Strudel Holdings LLC*, 656 B.R. 404 (Bankr. S.D. Tex. 2024), the court extended a real-estate closing deadline because an unforeseen cyberattack on the escrow agent made compliance impossible. 656 B.R. 404. Here, by contrast, the Stay Provision already contemplates a drawn-out IRS process; Plaintiff's "difficulty" is neither unforeseen nor unavoidable.

21. Plaintiff cites these cases to support the general proposition that Rule 60(b)(6) "should be liberally construed" and that courts have broad discretion to grant relief under that provision to accomplish justice. *Celtic Marine Corp*, 593 F. App'x at 303. But none of these cases authorize a court to excise a bargained-for stay clause simply because one party regrets the timing implication years later. On the contrary, they reinforce that Rule 60(b)(6) is available only when an unanticipated event renders continued enforcement of a judgement manifestly unjust—an entirely different scenario from the one presented here. *See Seven Elves*, 635 F.2d at 402 (Rule 60(b) should be liberally construed to do substantial justice, but not to disturb the finality of judgments absent compelling circumstances).

22. In sum, the Stay Provision was a material term of a negotiated settlement, its continued enforcement is neither manifestly unjust nor extraordinary. For the foregoing reasons, the Court should hold Plaintiff to its bargain and dismiss the adversary proceeding, or, at a minimum, stay it until the IRS Audit Dispute is fully and finally resolved, exactly as the Settlement Agreement requires.

IV. DISMISSAL SHOULD BE WITHOUT PREJUDICE

23. Plaintiff's tertiary requested relief is for dismissal without prejudice, subject to (a) a further extension of the claim objection deadline through February 1, 2026, and (b) Plaintiff's right to re-file the Complaint between January 1 and 31, 2026 together with a renewed Rule

60(b)(6) motion. Objection at ¶ 25. Daugherty agrees the dismissal should be without prejudice. Daugherty also does not oppose an extension of the claim objection deadline to February 1, 2026. However, Daugherty opposes Plaintiff's request for the right to re-file in January 2026 to the extent that Plaintiff is seeking a ruling that it may file before the IRS makes a final determination. The more appropriate procedure would be for Plaintiff to seek a further extension of the claim objection deadline by February 1, 2026, if necessary.

V. CONCLUSION

24. For the foregoing reasons, the Court should dismiss all claims against Daugherty because the Complaint does not satisfy the Rule 12(b)(6) pleading requirements as it fails to state a claim upon which relief may be granted. Alternatively, the Court should stay this adversary proceeding until the Debtor's IRS Audit Dispute is fully and finally resolved.

Respectfully submitted this 8th day of August 2025.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 8th day of August 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
jpomerantz@pszjlaw.com
John A. Morris
jmorris@pszjlaw.com
Gregory V. Demo
gdemo@pszjlaw.com
Hayley R. Winograd
hwinograd@pszjlaw.com
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

HAYWORD PLLC
Melissa S. Hayward
MHayward@HaywardFirm.com
Zachery Z. Annable
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Suite 106
Dallas, Texas 75231

Counsel for Highland Capital Management, L.P.

/s/ Andrew K. York
ANDREW K. YORK

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S REPLY IN FURTHER SUPPORT OF ITS CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor" as applicable) in the above-captioned chapter 11 case (the "Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), files this *Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* (the "Reply") in response to Daugherty's objection to Highland's Cross Motion [Adv. Pro. Docket No. 15] (the "Objection").[2] In further support of its Cross Motion, Highland respectfully states as follows:

REPLY

1. Stripped of its overly aggressive rhetoric, Daugherty's Objection dodges the merits of Highland's Cross Motion, avoiding entirely the unforeseen and extraordinary circumstances that indisputably exist. Daugherty's Motion should be denied, the Cross Motion should be granted, and the parties should be directed to litigate the merits of Highland's objections to Daugherty's Reserved Claim.[3]

2. Daugherty does not seriously dispute that neither the parties nor the Court nor any of Highland's stakeholders (all of whom who had an opportunity to object to the Stay Provision)

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to them in *Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024*. Adv. Pro. Docket No. 10 (the "Cross Motion").

[3] While Daugherty cites the standard for a motion to dismiss under Rule 12(b)(6) (Objection at 4), he does not challenge *any* allegation in the Complaint and makes *no* argument that Highland's causes of action for disallowance, estimation, and subordination lack sufficient factual support. Instead, Daugherty's motion to dismiss is based *solely* on the Stay Provision. Just as the Court must accept well-pleaded allegations as true for purposes of a motion to dismiss, the Court should also accept as true Highland's well-pleaded allegations concerning the IRS's final determination of the IRS Audit. But the most efficient path forward given the indisputable and extraordinary circumstances that exist is for the Court to grant the Cross Motion, strike the Stay Provision (and avoid collateral litigation over whether the IRS has made a "final determination"), and direct the parties to litigate the merits of Highland's objections.

foresaw in 2021 that Daugherty's Reserved Claim would remain unresolved in 2025 and would—if Daugherty has his way—serve as a barrier to Highland's commencement of the dissolution process and the ultimate conclusion of the Highland bankruptcy case.[4] In fact, Daugherty recently testified that when the parties were negotiating the Settlement Agreement in 2021, Jim Seery's "view was that this thing could get resolved in 2022."[5]

3. Now, Daugherty argues that Highland erred and "should have" negotiated an end date to the Stay Provision. But this argument proves Highland's point: Highland did not make a "mistake" because no one—neither the parties nor the Court nor any of Highland's stakeholders—thought to include an end date because no one foresaw that Daugherty's Reserve Claim would be unresolved four years later and prevent Highland from commencing dissolution. What everyone *did* foresee is that dissolution was *required* to begin no later than August 11, 2026—the maximum life of the Claimant Trust. An indefinite stay of the adjudication of Daugherty's Reserved Claim conflicts with the well-known terms of the Plan and Claimant Trust and provides further proof that an open-ended, indefinite stay was not contemplated by anyone.

4. Daugherty also ignores the consequences of his quest for a perpetual stay.[6] This is not a two-party dispute; indefinitely continuing the Highland bankruptcy case until the IRS Dispute is finally resolved—as Daugherty demands even though that is not the standard under the Stay Provision (*see* Objection ¶ 23)—will have a substantial and adverse impact on all

[4] It is hard to imagine the Bankruptcy Court approved the Stay Provision believing that (a) the IRS might not make a "final determination" of the IRS Audit for five or more years, and (b) the Highland bankruptcy case would remain open indefinitely until, in Daugherty's view, all appeals to every imaginable tribunal have been exhausted. Again, Daugherty doesn't seriously dispute that no one foresaw the current circumstances—which is why "manifest justice" mandates the granting of relief under Rule 60.

[5] Transcript, June 25, 2025, hearing at 153:12-154:10 [Docket No. 4296].

[6] The parties dispute whether the IRS has made a "final determination" of the IRS Audit. While Daugherty contends it hasn't, he offers no guidance as to when he believes a "final determination" might be made other than to cite to Highland's recent suggestion that litigation concerning the IRS Audit might not be complete until at least 2029; in fact, in Daugherty's view, the IRS may never make a "final determination." Motion ¶ 14.

stakeholders and the Court by unnecessarily continuing a bankruptcy case at considerable expense for no purpose other than Daugherty's misguided self-interest.[7] In contrast, Daugherty will not be prejudiced because he will simply defend his claim as he would have had Highland moved for estimation under Bankruptcy Code section 502(c)(1) back in 2021.

5. Finally, Daugherty's contention that Highland should be "estopped" from arguing that the IRS made a "final determination" in 2018 because it entered into the Settlement Agreement with the Stay Provision in 2021 is meritless. Highland simply "kicked the can down the road" subject to a reservation of rights. Because Highland is now near the end of the road, and Daugherty moved to dismiss based on the Stay Provision, Highland searched for and identified the documents referenced in the Cross Motion. *See* Adv. Pro. Docket No. 11, Exhibits 1-4. Daugherty was not prejudiced by the purported "delay" in Highland's pursuit of claims. To the contrary—he benefited from it by gaining four additional years for the IRS Dispute to play out.

CONCLUSION

WHEREFORE, Highland respectfully requests that the Court deny the Motion, grant the Cross Motion, and direct the parties to promptly litigate the Adversary Proceeding to conclusion.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[7] In addition to avoiding the merits of the Cross Motion, Daugherty also ignored Highland's assertion that Daugherty's maximum underpayment exposure (and therefore the maximum amount of his claim, assuming for the sake of argument only that the Reserved Claim is valid) is $455,000. Cross-Motion ¶ 18. Having already received over $12 million dollars on his Class 8 and Class 9 claims, it is hard to understand Daugherty's motive in spending the time, money, and effort litigating this matter so forcefully (and opposing the recent HMIT settlement and then appealing the Bankruptcy Court's order approving it) with such relatively low stakes.

Dated: August 15, 2025.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
HAYWARD PLLC
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone/Fax: (972) 755-7100

Counsel for Highland Capital Management, L.P.

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P. Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	Adversary No. 25-03055

NOTICE OF APPEARANCE AND REQUEST FOR SERVICE OF NOTICES AND OTHER PAPERS

PLEASE TAKE NOTICE that Melissa S. Hayward of Hayward PLLC, as counsel for Highland Capital Management, L.P., appears in the above-captioned adversary proceeding (the "Adversary Proceeding"). Pursuant to Rules 2002 and 9007 of the Federal Rules of Bankruptcy Procedure, Ms. Hayward requests that all notices, motions, pleadings, orders, and other documents

[1] The Reorganized Debtor's last four digits of its taxpayer identification number are (8357). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

filed, served, or entered in this Adversary Proceeding to be served upon the undersigned at the following address:

Hayward PLLC
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Attn: Melissa S. Hayward
Telephone/Facsimile: (972) 755-7100
Email: MHayward@HaywardFirm.com

This Notice of Appearance and Request for Service of Notices and Other Papers (the "Notice of Appearance") is not a waiver of any rights, including, without limitation, the right: (i) to have final orders in non-core matters entered only after de novo review by a judge of the appropriate United States District Court; (ii) to trial by jury in any proceeding so triable in this Adversary Proceeding or any case, controversy, or proceeding related to this Adversary Proceeding; and (iii) to have the United States District Court withdraw the reference in any matters subject to mandatory or discretionary withdrawal.

DATED: August 18, 2025.

Respectfully submitted,

HAYWARD PLLC

By: */s/ Melissa S. Hayward*
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone/Fax: (972) 755-7100

COUNSEL FOR HIGHLAND CAPITAL MANAGEMENT, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on August 18, 2025, a true and correct copy of the foregoing *Notice of Appearance* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this case.

/s/ Melissa S. Hayward
Melissa S. Hayward

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adv. Proc. No. 25-03055-sgj

CERTIFICATE OF SERVICE

I, Patrick M. Leathem, depose and say that I am employed by Kurtzman Carson Consultants, LLC dba Verita Global ("Verita"), the claims and noticing agent for the Reorganized Debtor in the bankruptcy case of *Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N.D. Tex).

On August 15, 2025, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **Highland Capital Management, L.P.'s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024** [Docket No. 16]

Dated: August 19, 2025

/s/ *Patrick M. Leathem*
Patrick M. Leathem
Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

[1]Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

EXHIBIT A

Exhibit A
Adversary Service List
Served via Electronic Mail

Description	CreditorName	CreditorNoticeName	Email
Counsel to Patrick Daugherty	Gray Reed	Jason S. Brookner, Andrew K. York, Joshua D. Smeltzer, Drake M. Rayshell, William Drabble	jbrookner@grayreed.com; dyork@grayreed.com; jsmeltzer@grayreed.com; draysehll@grayreed.com; wdrabble@grayreed.com
Counsel for the Debtor	Hayward & Associates PLLC	Melissa S. Hayward, Zachery Z. Annable	MHayward@HaywardFirm.com; ZAnnable@HaywardFirm.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Richard M. Pachulski, Jeffrey N. Pomerantz, Ira D. Kharasch, James E. O'Neill, Robert J. Feinstein, John A. Morris, Gregory V. Demo	rpachulski@pszjlaw.com; jpomerantz@pszjlaw.com; ikharasch@pszjlaw.com; joneill@pszjlaw.com; rfeinstein@pszjlaw.com; jmorris@pszjlaw.com; gdemo@pszjlaw.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Robert Joel Feinstein, Hayley R. Winograd, Judith Elkin, Jordan A Kroop, Robert J Feinstein	rfeinstein@pszjlaw.com; hwinograd@pszjlaw.com; jelkin@pszjlaw.com

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

PATRICK DAUGHERTY'S WITNESS AND EXHIBIT LIST
FOR HEARING SCHEDULED FOR SEPTEMBER 4, 2025 AT 9:30 A.M.

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

Patrick Daugherty, ("Daugherty") hereby files this Witness and Exhibit List for the hearing scheduled for September 4, 2025, at 9:30 a.m. (Central Time) in connection with Daugherty's *Motion to Dismiss* [Docket No. 5] and Highland Capital Management, L.P.'s *(A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Docket Nos. 9 and 10] and Patrick Daugherty's *(A) Reply in Support of His Motion to Dismiss and (B) Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Docket No. 15].

I. WITNESSES

Daugherty does not intend to call any witnesses at the hearing at this time. Daugherty reserves the right to cross-examine any witness called by any other party.

II. EXHIBITS

Daugherty designates the following exhibits:

EXHIBIT NUMBER	DESCRIPTION	MARKED	OFFERED	OBJECT	ADMITTED
PD-1	Settlement Agreement between Highland Capital Management, L.P. and Patrick Daugherty. (Main Case Docket No. 3089-1 in Case 19-34054-sgj)				
PD-2	Complaint for (1) Disallowance of Claim No. 205 In Its Entirety, (2) Estimation of Claim No. 205 For Allowance Purposes, Or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty in Adversary Proceeding No. 25-03055-sgj, *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty* (Docket No. 1)				

EXHIBIT NUMBER	DESCRIPTION	MARKED	OFFERED	OBJECT	ADMITTED
PD-3	Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith (Main Case Docket No. 3088 in Case 19-34054-sgj)				
PD-4	Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 (Main Case Docket No. 1281 in Case 19-34054-sgj)				
PD-5	Transcript Regarding Hearing Held 11/17/2020 Regarding Motion for Temporary Allowance of Claim (Main Case Docket No. 1426 in Case 19-34054-sgj)				
PD-6	Tolling Agreement Extending Claim Objection Deadline (Main Case Docket No. 4255-60 in Case 19-34054-sgj)				
PD-7	Amendment No. 1 to Tolling Agreement Extending Claim Objection Deadline (Main Case Docket No. 4255-61 in Case 19-34054-sgj)				
PD-8	Amendment No. 2 to Tolling Agreement Extending Claim Objection Deadline (Main Case Docket No. 4255-62 in Case 19-34054-sgj)				
PD-9	Amendment No. 3 to Tolling Agreement Extending Claim Objection Deadline (Main Case Docket No. 4255-63 in Case 19-34054-sgj)				
PD-10	Patrick Daugherty's Motion to Dismiss (Docket No. 5)				

EXHIBIT NUMBER	DESCRIPTION	MARKED	OFFERED	OBJECT	ADMITTED
PD-11	Patrick Daugherty's (A) Reply in Support of His Motion to Dismiss and (B) Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 (Docket No. 15)				
PD-	Any document entered or filed in the Debtor's chapter 11 bankruptcy case, including any exhibits thereto				
PD-	Any exhibits identified by or offered by any other party at the hearing				
PD-	Any exhibits offered for impeachment and/or rebuttal purposes				

Daugherty reserves the right to supplement or amend this Witness and Exhibit List any time prior to the hearing. This Witness and Exhibit List is not intended to limit Daugherty at the hearing or to imply that Daugherty may not seek introduction of evidence that is not on this list. Daugherty reserves the right to use any of the exhibits designated by any other party in this case.

Respectfully submitted this 29th day of August 2025.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com
Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 29th day of August 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
jpomerantz@pszjlaw.com
John A. Morris
jmorris@pszjlaw.com
Gregory V. Demo
gdemo@pszjlaw.com
Hayley R. Winograd
hwinograd@pszjlaw.com
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

HAYWORD PLLC
Melissa S. Hayward
MHayward@HaywardFirm.com
Zachery Z. Annable
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Suite 106
Dallas, Texas 75231

Counsel for Highland Capital Management, L.P.

/s/ Andrew K. York
ANDREW K. YORK

PD-1

EXHIBIT 1

Final Execution Copy

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement") is made and entered into by and between (i) Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), and (ii) Patrick Hagaman Daugherty ("Daugherty" and together with HCMLP, the "Parties," and individually as a "Party"). This Settlement provides for the treatment of certain claims asserted by Daugherty against the Debtor, and for the Parties to take certain other specified actions in settlement thereof.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, the Debtor's chapter 11 case (the "Bankruptcy") is pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, on February 2 and 3, 2021, the Court conducted a confirmation hearing with respect to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) [Docket No. 1808] (the "Plan");

WHEREAS, on February 8, 2021, the Court rendered an opinion from the bench in which it confirmed the Plan [Docket No. 1924];

WHEREAS, on February 22, 2021, the Court issued an order confirming the Plan [Docket No. 1943];

WHEREAS, on August 11, 2021, the Effective Date (as defined in the Plan) occurred [Docket No. 2700];

WHEREAS, Daugherty is a former employee and limited partner of the Debtor and has

served in other positions with affiliates and former affiliates of the Debtor;

WHEREAS, at the time of his resignation, Daugherty owned 19.1% of the preferred units of Highland Employee Retention Assets LLC ("HERA"), an employee deferred compensation vehicle managed by the Debtor and Highland ERA Management, LLC ("ERA") and contends that he owned or had the right to own all of the preferred units of HERA;

WHEREAS, prior to his resignation from HCMLP, Daugherty was awarded units of HERA, which vehicle owned interests in Restoration Capital Partners, LP ("RCP"), an HCMLP managed private equity fund, and other investments;

WHEREAS, in April 2012, the Debtor commenced an action against Daugherty in Texas state court (the "Texas Action"), and Daugherty subsequently asserted counterclaims for breach of contract and defamation, and third-party claims against HERA and others;

WHEREAS, after a three-week trial, the jury returned a verdict partially in favor of the Debtor, but Daugherty prevailed on his claims against the Debtor and James Dondero ("Dondero") for defamation with malice and a third-party claim against HERA and was awarded damages of $2.6 million against HERA, plus prejudgment and post-judgment interest at 5% (the "HERA Judgment");[1]

WHEREAS, in July 2017, after being unable to collect on the HERA Judgment, Daugherty commenced an action against the Debtor, Dondero, HERA, and ERA Management in the Delaware Chancery Court (the "Delaware Court"), in a case captioned *Daugherty v. Highland Capital Management, L.P., et al.*, C.A. No. 2017-0488-MTZ, for fraudulent transfer, promissory estoppel, unjust enrichment, indemnification, and fees on fees (the "Highland Delaware Case");

[1] The Debtor prevailed on its claims against Mr. Daugherty for breach of contract and breach of fiduciary duty for non-monetary damages and obtained an award of $2.8 million in attorney's fees. The HERA Judgment was affirmed on appeal on December 1, 2016.

WHEREAS, the Delaware Court in the Highland Delaware Case (i) found that the Dondero-related defendants improperly withheld dozens of documents in discovery on privilege grounds, and (ii) ruled that there was "a reasonable basis to believe that a fraud has been perpetrated" such that the Delaware Court applied the "crime-fraud exception" to the attorney-client privilege assertion, and such rulings have not been overturned;

WHEREAS, Daugherty asserts that such withholding of documents and the failure to search defendants' and their employees personal electronic devices for stored documents and texts as well as other emails and domain names such as sasmgt.com and gmail.com which were in their possession and control and to provide required discovery injured him by undermining his attempts to build an evidentiary record to support his claims against the Debtor and the other defendants in the Highland Delaware Case;

WHEREAS, on October 14, 2019, the Highland Delaware Case proceeded to trial and two days later, on October 16, 2019, before the completion of the trial and before the Delaware Court ruled on Daugherty's and the Debtor's cross-motions for summary judgment regarding indemnification and fees on fees, the Debtor filed for bankruptcy;

WHEREAS, on December 1, 2019, Daugherty filed a separate lawsuit in the Delaware Court, captioned *Daugherty v. Dondero, et al.*, C.A. No. 2019-0956-MTZ, against Dondero, HERA, ERA, Hunton Andrews Kurth LLP ("Andrews Kurth"), Marc Katz ("Katz"), Michael Hurst ("Hurst"), the Debtor's Chief Compliance Officer, the Debtor's then in-house counsel (Isaac Leventon ("Leventon")), and the Debtor's then general counsel (Scott Ellington ("Ellington")), for conspiracy to commit fraud, among other claims (the "HERA Delaware Case" and together with the Highland Delaware Case, the "Delaware Cases");

WHEREAS, on April 1, 2020, Daugherty filed a general, unsecured, non-priority claim

against the Debtor in the amount of at "least $37,483,876.59," and such claim was denoted by the Debtor's claims agent as Proof of Claim No. 67 ("Proof of Claim No. 67");

WHEREAS, on April 6, 2020, Daugherty filed a general, unsecured, non-priority claim against the Debtor in the amount of at "least $37,482,876.62" that superseded Proof of Claim No. 67 and that was denoted by the Debtor's claims agent as Proof of Claim No. 77 ("Proof of Claim No. 77");

WHEREAS, on August 31, 2020, the Debtor commenced an adversary proceeding against Daugherty by filing a complaint (the "Complaint") in which the Debtor: (1) objected to Proof of Claim No. 77 on various grounds (the "Claim Objection"), and (2) asserted a cause of action for the subordination of part of Daugherty's claim pursuant to section 510(b) of the Bankruptcy Code. Adv. Proc. No. 20-03107 (the "Adv. Proc.") [Adv. Docket No. 1] (the "Adversary Proceeding");

WHEREAS, on September 29, 2020, Daugherty filed his answer to the Complaint [Adv. Docket No. 8] (the "Answer");

WHEREAS, on September 24, 2020, Daugherty filed his *Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay* [Docket No. 1099] (the "Stay Motion") pursuant to which he sought to sever the Debtor from the Highland Delaware Case and then consolidate the remaining claims in the Highland Delaware Case into the HERA Delaware Case and proceed with one case against the non-Debtor parties;[2]

WHEREAS, on October 23, 2020, Daugherty filed a motion seeking leave to amend his Proof of Claim No. 77 [Docket No. 1280] (the "POC Amendment Motion"). The amended proof

[2] On October 8, 2020, the Debtor commenced a second adversary proceeding against Daugherty (the "Second Adversary Proceeding"), seeking to enjoin him from prosecuting the Delaware Cases. Adv. Proc. 20-03128 ("2d Adv. Proc.") [2d Adv. Proc. Docket No. 1]. On January 29, 2021, the parties filed a Settlement that resolved the Second Adversary Proceeding, and the Second Adversary Proceeding was subsequently dismissed with prejudice. [2d Adv. Proc. Docket No. 12].

of claim attached to the POC Amendment Motion increased Daugherty's general, unsecured, non-priority claim against the Debtor to the amount of at "least $40,410,819.42" and sought to supersede Proof of Claim No. 67 and Proof of Claim No. 77;

WHEREAS, on October 23, 2020, Daugherty filed his *Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Motion*, seeking for his Claim to be temporarily allowed for voting purposes in this amount of $40,410,819.42 [Docket No. 1281] (the "3018 Motion");

WHEREAS, on November 3, 2020, the Court granted the Stay Motion [Docket No. 1327];

WHEREAS, the Debtor opposed the 3018 Motion, and after conducting an evidentiary hearing for the limited purpose of determining the 3018 Motion, the Court entered an order temporarily allowing Daugherty's Claim only for voting purposes in the amount of $9,134,019 [Docket No. 1474];

WHEREAS, on December 10, 2020, the Court entered an order [Docket No. 1533] granting the POC Amendment Motion, and Daugherty was permitted to file an amendment to his proof of claim. On December 23, 2020, Daugherty filed an amended proof of claim, designated by the Debtor's claim agent as Proof of Claim No. 205 ("Proof of Claim No. 205" or the "Daugherty Claim"). Proof of Claim No. 205 superseded Proof of Claim No. 77 and increased the amount of the Daugherty's Claim to $40,710,819.42;

WHEREAS, on November 30, 2020, Daugherty filed his Motion to Lift the Automatic Stay (the "Lift Stay Motion") [Docket No. 1491] seeking to lift the automatic stay to allow him to finish his trial in the Delaware Court and liquidate his claims. The Debtor opposed the Lift Stay Motion, and after a hearing was held on December 17, 2020, the Court denied the relief requested in the Lift Stay Motion [Docket No. 1612];

WHEREAS, except with respect to the Reserved Claim (as defined below), the Parties have agreed to settle and resolve all claims and disputes between them and their respective current affiliates, managed entities, and employees, including the Daugherty Claim, on the terms set forth in this Settlement:

AGREEMENT

NOW, THEREFORE, after good-faith, arms-length negotiations, and in consideration of the foregoing, it is hereby stipulated and agreed that:

1. Allowed Claims: In full satisfaction of the entirety of the Daugherty Claim against the Debtor and HCMLP Released Parties (defined below), excluding the Reserved Claim, Daugherty shall receive (a) an allowed general unsecured Class 8 claim in the amount of $8,250,000; (b) an allowed subordinated general unsecured Class 9 claim in the amount of $3,750,000; and (c) a one-time lump sum cash payment in the amount of $750,000 to be paid within 5 business days of Bankruptcy Court approval of this Settlement Agreement.

2. Recovery: The Debtor makes no representation or warranty as to the recovery on Class 8 or Class 9 claims under the Plan.

3. Observation Access: As soon as practicable following entry of an order of the Bankruptcy Court approving this Settlement, HCMLP shall use reasonable efforts to petition the Claimant Trust Oversight Board[3] to permit Daugherty to have access as an observer to meetings of the Claimant Trust Oversight Board, subject to policies, procedures, and agreements applicable to other observers of the Claimant Trust Oversight Board, including policies, procedures, and agreements related to confidentiality and common interest. Whether Daugherty will be granted observer access and any continuing observer access is and will remain at the sole discretion of the

[3] The Claimant Trust Oversight Board refers to the Oversight Board as defined in the August 11, 2021 Highland Claimant Trust Agreement establishing the Claimant Trust, as defined therein.

Claimant Trust Oversight Board.

4. RCP Track Record: HCMLP shall use reasonable efforts to provide Daugherty with data constituting the investment performance track record of RCP during Daugherty's tenure at HCMLP. Daugherty shall not be entitled to any compensation with respect to the performance of RCP. HCMLP makes no representations or warranties regarding such data and takes no responsibility with respect to the use of such data for any purposes.

5. Daugherty Releases: Except as specifically provided in this paragraph 5, and to the maximum extent permitted by applicable law, the Debtor, on behalf of itself and each of the HCMLP Entities and HCMLP Parties (as those terms are defined in paragraph 6 below), hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue Daugherty, his successors, affiliates, and assigns, (and in each such category to include their respective advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, and designees) (collectively, the "Daugherty Additional Release Parties" and together with Daugherty, the "Daugherty Released Parties"), in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, or the Delaware Cases, all existing as of the date hereof (collectively, the "HCMLP Released Claims"); provided, however, that such release shall not

apply with respect to any and all defenses that HCMLP or the HCMLP Entities may have to the Reserved Claim or the Reserve Motion (as those terms are defined herein) or Daugherty's obligations under this Settlement. For the avoidance of doubt, the HCMLP Released Claims include all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

6. HCMLP Releases: Except as specifically provided in this paragraph 6, and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Released Parties, hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (a)(i) HCMLP; (ii) Strand Advisors Inc.; (iii) the Claimant Trust; (iv) the Claimant Trust Oversight Board; (v) the Highland Litigation Sub-Trust; (vi) the Highland Indemnity Trust; (vii) any entity of which greater than fifty percent of the voting ownership is held directly or indirectly by HCMLP as of the date hereof and any entity otherwise directly or indirectly controlled by HCMLP as of the date hereof,; and (viii) any entity managed by either HCMLP or a direct or indirect subsidiary of HCMLP, including Highland Restoration Capital Partners, L.P., Highland Restoration Capital Partners Offshore, L.P., Highland Restoration Capital Master, L.P. (and all of their respective general partners, feeder funds, managers, and affiliates) (the foregoing (a)(i) through (a)(viii) the "HCMLP Entities"), and (b) with respect to each such HCMLP Entity, such HCMLP Entity's respective current (meaning employed in their respective roles as of the date hereof) advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders (but not the shareholders of Strand Advisors Inc.), agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns, except as expressly set forth below (the "HCMLP Parties," and together with the

HCMLP Entities, the "HCMLP Released Parties"),[4] in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, or the Highland Delaware Case (collectively, the "Daugherty Released Claims"); provided, however, that such release shall not apply with respect to the Reserved Claim or the Reserve Motion (as those terms are defined in paragraph 9 below) or HCMLP's obligations under this Settlement. This release expressly applies to all current employees of HCMLP as the Reorganized Debtor (as defined in the Plan), in their capacities as such. For the avoidance of doubt, the Daugherty Released Claims includes all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

7. Reservation of Daugherty Rights: Notwithstanding anything contained herein to the contrary, the term HCMLP Released Parties shall not include (a) NexPoint Advisors, L.P. (or any of its subsidiaries and employees, advisors, or agents), (b) the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and any of their respective employees, advisors, or agents), (c) NexBank, SSB (or any of its subsidiaries, employees, advisors, or agents), (d) James Dondero or any trust in which Dondero or any of his family members are a trustee or beneficiary (or any trustee acting for such trust), including but not limited to Hunter

[4] The Daugherty Additional Released Parties and the HCMLP Released Parties are collectively referred to as the "Additional Released Parties."

Mountain Investment Trust, The Get Good Trust, Dugaboy Investment Trust, SLHC Investment Trust, (e) HERA (subject to paragraph 8 below), (f) ERA (subject to paragraph 8 below), (g) Grant Scott, (h) Mark Okada and any trust in which Mark Okada or any of his family members are a beneficiary (or any trustee acting for such trust in their respective capacities), (i) Ellington, (j) Leventon, (k) Katz, (l) Hurst, (m) Andrews Kurth, or (m) any other former employee (as of the date hereof) of the HCMLP Released Parties.

8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

10. Current HCMLP Employees: The HCMLP Parties set forth on **Appendix A** hereto are currently employed by the Debtor are HCMLP Released Parties. By executing a copy of this Settlement and delivering it to Daugherty, each of the persons on Appendix A agrees not to sue, attempt to sue, or threaten or work with or assist any entity or person to sue, attempt to sue, or threaten any Daugherty Released Party on or in connection with any claim or cause of action arising prior to the date of this Settlement.

11. Dismissal and Motions in Other Actions. Within ten business days after approval of this Settlement by the Bankruptcy Court, the Parties shall take all steps necessary (a) to dismiss with prejudice (i) the Highland Delaware Case, as against the Debtor and any HCMLP Released Party, and (ii) the HERA Delaware Case, as against every HCMLP Released Party, (b) to file an agreed motion and proposed order to partially vacate the final judgment entered against Daugherty

in the Texas Action, (c) withdraw HCMLP's objection to the Daugherty motion to recuse in the Texas Action, and (d) to dismiss the Adversary Proceeding with prejudice. The parties shall file the foregoing motions and withdrawals substantially in the form of the documents annexed hereto as **Exhibit B**.

12. Additional Third Party Claims Discovery: The Debtor (a) shall accept service of any subpoenas via email served by Daugherty in connection with the Delaware Cases on behalf of itself, the HCMLP Entities, the HCMLP Parties (but only in their capacity as employees of HCMLP); and (b) acknowledge and consent to the jurisdiction of the Delaware Chancery Court for purposes of enforcing any such subpoenas, subject in all respects to the rights that the HCMLP Entities and HCMLP Parties to defend the requested production, if any.

13. Settlement of Third Party Claims: Daugherty shall not settle any claims or causes of action against any current or former director, officer, employee, agent or representative of HCMLP or Strand Advisors Inc. (collectively, the "Potentially Indemnified Parties") to the extent such claims have been brought or could have been brought against any Potentially Indemnified Parties, if any such settlement designates, defines or describes the settled claims as arising out of or relating to simple negligence or as having otherwise been within the scope of employment of the Potentially Indemnified Party.

14. Claims Register: As soon as practicable after the Settlement Effective Date, HCMLP shall instruct the claims agent in the Debtor's chapter 11 case to adjust the claims register in accordance with this Settlement.

15. Daugherty Representations: Daugherty represents and warrants to each of the HCMLP Released Parties that (a) he has full authority to release the Daugherty Released Claims and has not sold, transferred, or assigned any Daugherty Released Claim to any other person or

entity and that (b) no person or entity other than Daugherty has been, is, or will be authorized to bring, pursue, or enforce any Daugherty Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) Daugherty.

16. HCMLP Representations: Each of HCMLP and each HCMLP Released Party who has signed this Settlement represents and warrants to Daugherty that (a) he, she or it has not sold, transferred, pledged, assigned or hypothecated any HCMLP Released Claim to any other person or entity and (b) he, she, or it has full authority to release any HCMLP Released Claims that such HCMLP Released Party personally has against Daugherty.

17. Additional HCMLP Representations: HCMLP represents and warrants that it is releasing the HCMLP Released Claims on behalf of the HCMLP Entities to the maximum extent permitted by any contractual or other legal rights HCMLP possesses. To the extent any of the HCMLP Entities dispute HCMLP's right to release the HCMLP Released Claims on behalf of any of the HCMLP Entities, HCMLP shall use commercially reasonable efforts to support Daugherty's position, if any, that such claims were released herein. For the avoidance of doubt, HCMLP will have no obligations to assist Daugherty under this paragraph if HCMLP has been advised by external counsel that such assistance could subject HCMLP to liability to any third party or if such assistance would require HCMLP to expend material amounts of time or money. HCMLP shall not argue in any forum that the non-signatory status of any of the HCMLP Entities to this Settlement shall in any way affect the enforceability of this Settlement vis-à-vis any of the HCMLP Entities. The Parties agree that all of the HCMLP Entities are intended third-party beneficiaries of this Release.

18. HCMLP Covenant: HCMLP and the HCMLP Entities covenant and agree that they will not pursue or seek to enforce any injunctions entered in the Texas Action against

Daugherty.

19. Entire Agreement; Modification: This Settlement contains the entire agreement between the Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between the Parties. This Settlement may not be modified other than by a signed writing executed by the Parties.

20. Bankruptcy Court Approval: Notwithstanding anything to the contrary contained herein, the effectiveness of HCMLP and the Claimant Trust's execution of this Settlement shall be subject to entry of an order of the Bankruptcy Court approving this Settlement. HCMLP shall take all steps necessary to file with the Bankruptcy Court a motion for an order approving this Settlement pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code (the "Motion"). The parties agree to cooperate in the preparation and prosecution of the Motion which shall be filed no later than 5 business day after execution of this Settlement, unless such time is extended by mutual agreement.

21. Counterparts: This Settlement may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument and shall be effective against a Party or Additional Released Party upon approval of the Settlement by the Bankruptcy Court.

22. Governing Law; Jurisdiction: This Settlement will be exclusively governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles, and all claims relating to or arising out of this Settlement, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of Delaware, excluding Delaware's conflicts of law principles. The Bankruptcy Court will retain exclusive jurisdiction over all disputes relating to this Settlement.

23. Headings: Paragraph headings included herein are for convenience and shall have no impact whatsoever on the meaning or interpretation of any part of this Settlement.

[Remainder of page intentionally left blank]

In witness whereof, the parties hereto, intending to be legally bound, have executed this Settlement as of the day and year set forth below:

Dated: 11-24-21

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____

Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND CLAIMANT TRUST

By: _____

Name: James P. Seery, Jr.
Title: Claimant Trustee

PATRICK HAGAMAN DAUGHERTY

Dated: 11/22/21

By: _____

Name: Patrick Hagaman Daugherty

EXHIBIT A

HERA RELEASE AGREEMENT

This HERA Release Agreement ("HERA Release Agreement") is entered into as of November 21, 2021 by and among Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), Patrick Hagaman Daugherty ("Daugherty"), Highland Employee Retention Assets, LLC ("HERA") and Highland ERA Management, LLC ("ERA" and together with HCMLP, and HERA, the "Parties," and individually as a "Party").

WHEREAS, reference is hereby made to the Settlement Agreement (the "Settlement") of even date herewith and attached hereto made and entered into by and between the Debtor, the Highland Claimant Trust, and Daugherty.

WHEREAS, the Settlement settles all of Daugherty's claims against the HCMLP Released Parties, including all claims against the HCMLP Released Parties relating to transfers of assets from HERA.

WHEREAS, the Settlement includes, among other things, the transfer by HCMLP to Daugherty of HCMLP's interests in HERA and ERA.

WHEREAS, under the Settlement such transfer is being made without any liability to any of the HCMLP Released Parties of any type and is conditional on the full release of, and covenant not to sue, each of the HCMLP Released Parties, by and from HERA, ERA, Daugherty and the Daugherty Released Parties.

WHEREAS, neither HERA nor ERA filed proofs of claim in the Bankrupty and have no claims against HCMLP.

WHEREAS, out of an abundance of caution to confirm that HERA, ERA, Daugherty, and the Daugherty Released Parties have no claims against the HCMLP Released Parties, this HERA Release Agreement is being entered into contemporaneously with the Settlement and constitutes an

essential part thereof.

WHEREAS, capitalized terms used herein but not otherwise defined herein have the respective meanings set forth in the Settlement.

NOW, THEREFORE, in consideration of the entry into of the Settlement, the transfer of the equity interests in HERA and ERA to Daugherty in accordance with the Settlement, and for other good and valuable consideration, including the provisions set forth herein, the parties hereto further agree as follows:

1. Upon entry of an order of the Bankruptcy Court approving this Settlement and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Additional Release Parties, together with each of HERA and ERA (Daugherty, the Daugherty Additional Release Parties, HERA and ERA shall be collectively referred to herein as the "HERA Releasing Parties"), each hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, any of the HCMLP Released Parties for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, Highland Delaware Case, or the HERA Delaware Case (collectively, "Claims"), in each case that in any way arise from or otherwise in any way relate to HERA or ERA, including, without limitation, any actual or potential claims, whether known or unknown, in any way related to or

arising out of the formation, management, operation or assets of HERA, ERA or any of their respective predecessors or successors, including the transfer of any assets to or from HERA or ERA, it being understood that all remaining assets of HERA have been transferred to HCMLP prior to the date hereof, and in addition to the releases set forth above, each of the HERA Releasing Parties irrevocably waives and releases and covenants not to sue with respect to any Claims against any of the HCMLP Released Parties in any way related to any such transfers or assets, whether *in personam* with respect to the HCMLP Released Parties or *in rem* with respect to any of their assets (collectively, the "HERA Released Claims") or any other Disposition.

2. This Release constitutes a part of, and is supplemental to, the provisions of the Settlement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

In witness whereof, the parties hereto, intending to be legally bound, have executed this HERA Release Agreement as of the date set forth above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

PATRICK HAGAMAN DAUGHERTY

By: _____
Name: Patrick Hagaman Daugherty

HIGHLAND EMPLOYEE RETENTION ASSETS, LLC

By: Highland ERA Management, LLC, its manager

By: Highland Capital Management, LP

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND ERA MANAGEMENT, LLC

By: _____
Name: James P. Seery, Jr.
Title: Authorized Signatory

EXHIBIT B

CAUSE NO. 12-04005		
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**IN THE DISTRICT COURT OF**
Plaintiffs,	§	
v.	§	
PATRICK DAUGHERTY,	§	
Defendant and Counter-Plaintiff,	§	**DALLAS COUNTY, TEXAS**
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	
Third-Party Defendants.	§	
	§	**68th JUDICIAL DISTRICT**

AGREED MOTION TO PARTIALLY VACATE THE FINAL JUDGMENT DATED JULY 14, 2014

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Highland Capital Management, LP ("Highland") and Defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties") file this *Agreed Motion to Partially Vacate the Final Judgment dated July 14, 2014* (the "Motion"), and respectfully show the following:

1. On July 14, 2014, this Court entered a *Final Judgment* (the "Judgment") that, among other things, granted Highland's motion for injunctive relief against Daugherty.

2. The Judgment was amended on March 23, and June 23, 2017.

3. On October 16, 2019, filed a petition under chapter 11 in the United States Bankruptcy Court for the District of Delaware ("Highland's Bankruptcy Case"). On October 24,

2019, as a result of the commencement of Highland's Bankruptcy Case, the Supreme Court of Texas issued an order abating a related case that Daugherty had brought in that court, Case No. 19-0758. Highland's Bankruptcy Case was subsequently transferred to the United States Bankruptcy Court for the Northern District of Texas.

4. Daugherty asserted certain claims against Highland in Highland's Bankruptcy Case. The Parties have fully and finally resolved their disputes pursuant to a settlement agreement (the "Settlement Agreement") reached in the Highland Bankruptcy Case pursuant to which, among other things, (a) all of Daugherty's known and unknown claims against each of the Highland Released Parties (as those terms are defined in the Settlement Agreement) are resolved, and (b) this Motion seeking the *vacatur* of certain provisions of the Judgment specifically set forth below is being filed.

5. Highland and Daugherty hereby agree and stipulate that the Court has plenary power to issue an order granting this Motion because the Court retained authority to enforce the permanent injunction rendered in the Judgment, and that changed circumstances have now arisen such that the Court should dissolve the permanent injunction. Highland and Daugherty further agree and stipulate that this Motion shall be treated as an agreement of the Parties pursuant to Texas Rule of Civil Procedure 11, and is fully enforceable. *See Coale v. Scott*, 331 S.W.3d 829, 831-32 (Tex. App.—Amarillo 2011, no pet.) ("Irrespective of whether a trial court lost its plenary jurisdiction over its judgment, the trial court's authority to approve a Rule 11 agreement does not depend on whether it has such jurisdiction.").

6. Highland and Daugherty agree that the following portions of the Judgment shall be vacated pursuant to their settlement in the Highland Bankruptcy:

a. The second full paragraph on Page 2 of the Judgment, which begins "The Court, after considering the jury's findings regarding Daugherty's breaches of contract and breaches of fiduciary duty . . .";

b. The permanent injunction rendered against Daugherty in the third full paragraph on Page 2 of the Judgment, which begins "It is therefore further ORDERED that Daugherty be and hereby is commanded to cease and desist from . . .";

c. The fourth and fifth full paragraphs on Page 2 of the Judgment awarding Highland a monetary judgment against Daugherty for reasonable and necessary attorney's fees, as well as post-judgment interest on that award[1]; and

d. The jury's answers to Questions 1, 2, 5, 6, 9 and 12 in the Verdict, which was attached as Exhibit 1 to the Judgment.

7. Highland and Daugherty further agree that, as a result of the vacation of the permanent injunction in the Judgment, Highland hereby withdraws any pending motions to show cause or motions for contempt against Daugherty that allege Daugherty violated or is violating the permanent injunction. Highland also agrees not to seek to enforce the permanent injunction in any manner in the future.

[1] Daugherty previously satisfied the monetary judgment awarded to Highland, and Highland filed a release of the monetary judgment. Although Highland and Daugherty have agreed to vacate the monetary judgment awarded to Highland, Daugherty waives and relinquishes any right or claim to recover any amount previously paid in satisfaction of the Judgment and Highland shall not be required to reimburse Daugherty for his prior satisfaction of the monetary judgment. To the extent Daugherty is entitled to indemnification for any liabilities, losses, and damages allegedly incurred by him for actions taken in connection with Highland's business, including the liabilities Daugherty allegedly incurred in connection with this action and the Judgment, such indemnification claims have been fully and finally satisfied and resolved under the Settlement Agreement.

8. Concurrent with the filing of this Motion, Daugherty will file a motion to dismiss his as-yet unfiled petition for review pending before the Supreme Court of Texas under Case No. 19-0758.

9. Highland and Daugherty further agree that any portions of the Judgment that are not specifically vacated pursuant to this Motion shall remain in full force and effect.

WHEREFORE, Highland and Daugherty pray that the Court grant this Motion in its entirety, and for all further relief, at law or in equity, the Court deems necessary.

Respectfully submitted,

GRAY REED & McGRAW LLP

By: */s/ Sonya D. Reddy*
ANDREW K. YORK
State Bar No. 24051554
E-mail: dyork@grayreed.com
SONYA D. REDDY
State Bar No. 24079188
E-mail: sreddy@grayreed.com

1601 Elm Street, Suite 4600
Dallas, Texas 75201
(214) 954-4135
(214) 953-1332 (Fax)

ATTORNEYS FOR PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been transmitted by electronic transmission to all counsel of record on February ___, 2021, as follows:

Marc D. Katz
Crystal J. Woods
DLA PIPER LLP (US)
1717 Main St., Suite 3700
Dallas, Texas 75201
214-743-4545 (Fax)
marc.katz@dlapiper.com
crystal.woods@dlapiper.com

Attorneys for Highland Capital Management, L.P.

Michael K. Hurst
A. Shonn Brown
Jonathan Childers
LYNN PINKER COX HURST, LLP
2100 Ross Ave., Suite 2700
Dallas, Texas 75201
(214) 981-3839 (Fax)
mhurst@lynnllp.com
sbrown@ lynnllp.com
jchilders@ lynnllp.com

Attorneys for Third-Party Defendants HERA, Patrick Boyce, and William Britain

/s/ Sonya D. Reddy
SONYA D. REDDY

APPENDIX A (signatures to follow)

1. James P. Seery, Jr.
2. Cameron Baynard
3. Nathan Burns
4. Timothy Cournoyer
5. Naomi Chisum
6. Stetson Clark
7. Sean Fox
8. Matthew Gray
9. Kristin Hendrix
10. David Klos
11. Vishal Patel
12. Thomas Surgent
13. Michael Throckmorton

PD-2

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adversary Proceeding No.
	§	
v.	§	_____
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

COMPLAINT FOR (1) DISALLOWANCE OF CLAIM NO. 205 IN ITS ENTIRETY, (2) ESTIMATION OF CLAIM NO. 205 FOR ALLOWANCE PURPOSES, OR (3) SUBORDINATION OF ANY ALLOWED PORTION OF CLAIM NO. 205 OF PATRICK HAGAMAN DAUGHERTY

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor" as applicable) in the above-captioned chapter 11 case ("Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), files the *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* (the "Complaint"), alleging upon knowledge of its own actions and upon information and belief as to all other matters as follows:

PRELIMINARY STATEMENT[2]

1. Patrick Daugherty is a former employee of, and former limited partner in, the Debtor. Mr. Daugherty filed a claim (denoted as Claim No. 205) in which he asserted a myriad of claims against the Debtor. All of Mr. Daugherty's claims were settled except his unliquidated, contingent claim that the Debtor has a continuing and indefinite obligation to make him whole if a tax refund he apparently received for tax year 2008 on account of his Partnership Interests is ever successfully challenged by the IRS.

2. As discussed below, in 2009, Mr. Daugherty was allocated his applicable losses from Highland for tax year 2008 on account of his Partnership Interests. The allocation of losses in 2009 fully satisfied the 2008 Refund line item in the 2009 Statement; Mr. Daugherty received exactly what he was entitled to receive from Highland. Accordingly, Mr. Daugherty's Claim against the Debtor for additional compensation for 2008 has no basis and the Claim should be disallowed.

3. To avoid this result, Mr. Daugherty alleges the Debtor is required to make him whole if any portion of the tax refund he received for 2008 on account of his Partnership Interest

[2] All capitalized terms used but not defined in this Preliminary Statement have the meanings given to them below.

is clawed back by the IRS—Highland's 2008 tax return is currently subject to an IRS audit. But the 2009 Statement contains no future, ongoing obligations. Under the 2009 Statement, if Mr. Daugherty received the material equivalent of the "2008 Refund" (which he apparently did), Highland's obligations have been satisfied in full. The 2009 Statement contains no ongoing obligation for Highland to defend Mr. Daugherty or indemnify him. And it would violate basic tenets of contract law to read vague and indefinite precatory language in the 2009 Statement as creating a specific continuing and binding payment obligation that can be enforced forever. This is particularly true where the agreement that governed Mr. Daugherty's employment by the Debtor expressly provided that after his separation from the Debtor, the Debtor would have no further liability or obligation to Mr. Daugherty in connection with his employment.

4. However, even if Mr. Daugherty's Claim is not disallowed in its entirely, it remains contingent on the outcome of the 2008 Audit. It is unclear when, how, or if the 2008 Audit will be finally resolved. Moreover, if the Claim is not disallowed, it will need to be estimated—after taking into account the likely outcome of the 2008 Audit, including adjustments that result therefrom—pursuant to 11 U.S.C. § 502(c). The Claim (in whatever amount) based on his partnership tax allocations must also be subordinated to the interests in Class 10 pursuant to 11 U.S.C. § 510(b).

JURISDICTION AND VENUE

5. This Adversary Proceeding arises in and relates to Highland's Bankruptcy Case.

6. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

7. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b), and, pursuant to Bankruptcy Rule 7008, Highland consents to the entry of a final order by the Court if

it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the U.S. Constitution.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

THE PARTIES

9. Highland is a limited partnership formed under the laws of Delaware with a business address at 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

10. Upon information and belief, Defendant Patrick Daugherty is an individual residing at 3621 Cornell Avenue, Suite 830, Dallas, Texas 75205.

STATEMENT OF FACTS

I. The Bankruptcy Case and Mr. Daugherty's Claims

11. On October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code commencing the Bankruptcy Case.

12. On April 1, 2020, Mr. Daugherty filed Proof of Claim No. 67 ("Claim 67"). On April 6, 2020, Mr. Daugherty filed Proof of Claim No. 77 ("Claim 77"), which superseded and replaced Claim 67 in its entirety. On December 23, 2020, Mr. Daugherty filed Proof of Claim No. 205 (the "Claim" or "Claim 205"), which superseded and replaced Claim 77 in its entirety.

13. On February 22, 2021, this Court entered the *Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943],[3] which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Bankr. Docket No. 1808] (as amended, the "Plan"). The Plan became effective August 11, 2021 [Bankr. Docket No. 2700].

[3] Bankr. Docket No. __" refers to the docket maintained in Case No. 19-34054-sgj11.

14. On December 8, 2021, the Debtor filed *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the "Settlement Motion").

15. This Court approved the Settlement Motion on March 8, 2022 [Bankr. Docket No. 3298] (the "Settlement Order"), disallowing Claim 67 and Claim 77 with prejudice and resolving all of Claim 205 other than Mr. Daugherty's claim for the 2008 Refund.

II. Mr. Daugherty Was Employed by the Debtor and Became a Limited Partner

16. Mr. Daugherty was hired by the Debtor in 1998. Later, he became eligible to participate in the Debtor's long-term incentive plan (the "LTIP"). Pursuant to the LTIP, at various times, Mr. Daugherty received limited partnership interests in the Debtor (the "Partnership Interests") and became one of the Debtor's limited partners. At all relevant times with respect to Claim 205 as it relates to the 2008 Tax Refund, Mr. Daugherty's employment was governed by an *Amended and Restated Employment Agreement*, dated as of December 31, 2004 (the "Employment Agreement"). For the 2008 tax year, Mr. Daugherty was allocated 0.740262% of the taxable losses of the Debtor on account of his Partnership Interests.

17. Because the Debtor was a limited partnership, it was a pass-through entity for tax purposes and paid no federal income tax. The Debtor's limited partners, including Mr. Daugherty, were therefore required to pay individual federal income taxes (among other taxes) based on, among other things, their allocable share of the Debtor's income, if any, or could use their allocable share of any losses to offset other current income or, in certain circumstances, carry back losses, and receive a tax refund from the Internal Revenue Service (the "IRS"). Thus, because of his Partnership Interests, Mr. Daugherty was entitled to receive a pass through of his allocable share of any taxable gains or losses generated by the Debtor. Taxable gains increase tax liability; taxable losses decrease tax liability.

III. The 2009 Statement and IRS Audit

18. On February 27, 2009, the Debtor provided Mr. Daugherty with a *Comprehensive Compensation and Benefits Statement* recapping all earnings, awards, and benefits Mr. Daugherty received in connection with his employment by and Partnership Interests in the Debtor during calendar year 2008 (the "2009 Statement"). A true and accurate copy of the 2009 Statement is attached hereto as **Exhibit A**. Such statements were provided to all employees each year at the conclusion of the annual performance review and bonus cycle.

19. The 2009 Statement included what Highland estimated to be the tax refund Mr. Daugherty could expect for tax year 2008 in the amount of $1,475,816 (the "2008 Refund"). That amount purported to be an estimate of the pre-tax equivalent refund that Mr. Daugherty should have expected to receive from the IRS on account of the losses attributable to his Partnership Interests for the 2008 tax year.

20. The 2008 Refund was "an estimated amount" based on the notion that losses in 2008 would equal or exceed total partnership gains that had been allocated to Mr. Daugherty in tax years 2005, 2006, and 2007 and assuming a 27% effective tax rate for each year for all of the employee limited partners. The amount was then "grossed up" by 35% so that Mr. Daugherty could compare it to the value of the other benefits for being a Debtor partner and employee[4]. Finally, the estimated partner tax refund amount was calculated without reference to Mr. Daugherty's other personal tax attributes for the 2008 tax year or prior years, and partners were advised that each person's own actual refund may vary based on their own effective tax rate.

21. While the 2009 Statement vaguely noted that "[i]f actual refund deviates materially from estimate, other compensation will be fairly adjusted," partners like Mr.

[4] The calculation of the 2008 Refund was therefore 2005-2007 allocated income of $3,552,890 x 27% or $959,280. Then the $959,280 was divided by 35% for a "pre-tax" calculated amount of $1,475,816.

Daugherty were told that the tax refund amounts were "not guaranteed," and that if refund amounts were different, Highland would merely "consider what action to take on a case-by case basis, considering several factors."

22. As reflected on his K-1 for tax year 2008 (the "2008 K-1"), Mr. Daugherty was allocated ordinary business losses by Highland in excess of $4 million, along with other losses that well-exceeded the allocated income from 2005-2007.[5] As shown in the 2008 K-1, Mr. Daugherty received what he was promised in the 2009 Statement, if not more.

23. After the obligations to Mr. Daugherty under the 2009 Statement had been satisfied, the IRS began an audit of Highland's 2008 tax return (the "2008 Audit").[6] On information and belief, the 2008 Audit is not yet fully resolved.

24. On October 31, 2011, Mr. Daugherty terminated his employment with Highland. Pursuant to the express conditions of his Employment Agreement, Mr. Daugherty acknowledged and agreed that the Debtor would "have no further liability or obligation to [Mr. Daugherty] under [the Employment Agreement] or in connection with his/her employment of termination."

IV. The Alleged Basis for the Claim

25. In the Claim, Mr. Daugherty demands the Debtor pay him $2,650,353, which consists of the full amount of the 2008 Refund ($1,475,816) plus interest of $1,174,537.[7] Mr.

[5] In the simplest terms, to determine whether an individual owes additional taxes or is entitled to a refund, income or losses are multiplied by the applicable tax rate. As an example, in a vacuum, $4 million of taxable losses allocated to an individual in the 27% bracket would result in $1.1 million of benefit in terms of reduction to their taxes owed ($4 million x 27% = $1.1 million). Likewise, $1 million of adjusted gross income resulting from W-2 wage income for an individual would result in $270,000 of tax liability for an individual whose effective tax rate is 27%, all else equal.

[6] Strand Advisors, Inc. ("Strand"), is the Debtor's "tax matters partner" for purposes of defending the 2008 Audit. Control of Strand reverted to James Dondero—the Debtor's ousted founder—in 2021, and the Debtor has no role in the 2008 Audit or visibility into its current status or how it is being conducted. On information and belief, the 2008 Audit has not been resolved and is heading to court with a resolution not expected until approximately 2029.

[7] Mr. Daugherty has provided no statutory or other justification for his claim for interest nor has he provided a proposed interest rate.

Daugherty's theory seems to be that if, upon the conclusion of the 2008 Audit, he is required to reverse the tax loss he received as a limited partner, the Debtor must reimburse him for the entirety of the 2008 Refund with interest. In other words, Mr. Daugherty reads a continuing obligation into the 2009 Statement to indemnify him for personal income taxes he may owe, if any, as a result of the 2008 Audit.

26. However, and as set forth above, there is no such obligation in the 2009 Statement. Mr. Daugherty has no claim.

27. But even if Mr. Daugherty did have a claim (he does not), it would be unliquidated and contingent and subordinated as it arises solely from his Partnership Interests.

FIRST CLAIM FOR RELIEF

(Disallowance under Bankruptcy Code 11 U.S.C. § 502(a))

28. Highland repeats and re-alleges as if set forth herein the foregoing factual allegations.

29. Under 11 U.S.C. § 502(a) a "claim ..., proof of which is filed under section 501 [of the Bankruptcy Code], is deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a).

30. The ultimate burden of proof for a claim always lies with the claimant. *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep't of Rev.*, 530 U.S. 15 (2000)).

31. Mr. Daugherty received and has benefited for the past 16 years from the 2008 Refund, *i.e.*, the 2008 losses allocated to Mr. Daugherty as a Highland partner. The benefit he received from the IRS (either as a tax refund or liability reduced through offsetting of income) did not materially deviate from, and may have exceeded, the basis for the estimated 2008 Refund set forth in the 2009 Statement.

32. Accordingly, the Debtor satisfied its obligations (to the extent it even had any) under the 2009 Statement in full, and no additional, future obligations exist under the 2009 Statement. Because the Debtor has satisfied its obligations, Claim 205 should be disallowed in its entirety.

33. Moreover, even if the tax benefits he received related to tax year 2008 materially deviated from the 2009 Statement, Mr. Daugherty would not be able to recover from the Debtor based on the vague statement in the 2009 Statement that lacks the definiteness required to form a contractual obligation.

SECOND CLAIM FOR RELIEF

(Estimation under Bankruptcy Code 11 U.S.C. § 502(c))

34. Highland repeats and re-alleges as if set forth herein the foregoing factual allegations.

35. As set forth above, Mr. Daugherty has no Claim; however, to the extent the Court believes he has one, it is unliquidated and contingent on the final outcome of the 2008 Audit, including the magnitude of any adjustments. If the 2008 Audit is successfully defended, Mr. Daugherty will have no claim.

36. Under 11 U.S.C. § 502(c) "[t]here shall be estimated for purposes of allowance … (1) any contingent or unliquidated claim, the fixing or liquidation of which … would unduly delay the administration of the case …."

37. The Plan was confirmed in February of 2021 and has been effective since August of 2021. Mr. Daugherty's Claim is the last unresolved claim[8] against the estate.

38. It is currently unknown when, if, or how the 2008 Audit will be resolved.

[8] The Equity Interests in subordinated Class 10 and further subordinated Class 11 have not been allowed under the terms of the Plan.

39. Accordingly, the Debtor requests that this Court estimate the Claim—after taking into account the likelihood and degree to which the 2008 Audit will be successful or unsuccessful—under 11 U.S.C. § 502(c) for purposes of allowance and distribution.

THIRD CLAIM FOR RELIEF

(Subordination under Bankruptcy Code 11 U.S.C. § 510(b))

40. Highland repeats and re-alleges as if set forth herein the foregoing factual allegations.

41. Under the Bankruptcy Code,

> a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor, for damages arising from the purchase or sale of such a security, or for reimbursement or contribution allowed under section 502 on account of such a claim, shall be subordinated to all claims or interests that are senior to or equal the claim or interest represented by such security ….

11 U.S.C. § 510(b). Section 510(b) requires the subordination of claims arising from the purchase of the equity itself and all claims arising thereafter as incidents of ownership. *In re SeaQuest Diving, LP*, 579 F.3d 411, 421 (5th Cir. 2009).

42. Section 510(b) applies to the ownership of limited partnership interests. *Templeton v. O'Cheskey (In re Am. Hous. Found.)*, 785 F.3d 143, 154 (5th Cir. 2015).

43. Mr. Daugherty owned the Partnership Interests, and his Claim is contingent on the IRS clawing back the 2008 Refund he received on account of those Partnership Interests through the 2008 Audit.

44. But for the Partnership Interests, Mr. Daugherty would not have been entitled to the 2008 Refund nor would Mr. Daugherty have any potential liability to the IRS from the 2008 Audit. A nexus or causal relationship exists between Claim 205 and the "purchase" of the Partnership Interests.

45. Accordingly, judgment should issue declaring that the Claim—to the extent it is not disallowed in full—is subordinated pursuant to 11 U.S.C. § 510(b) and shall, subject to such other defenses or objections as may exist with respect to the Claim, have the same rank and priority as Class 11 under the Plan.

PRAYER

WHEREFORE, Highland prays for judgment as follows:

1. For the disallowance of the Claim in its entirety;

2. For estimation for the Claim for purposes of allowance and distribution;

3. For subordination of the Claim;

4. For damages and costs of suit, including attorneys' fees, incurred in connection herewith; and

5. For such other and further relief as the Court deems just and proper.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Dated: May 2, 2025.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

EXHIBIT A

PAT DAUGHERTY

Date of Hire: 4/3/1998

Comprehensive Compensation and Benefits Statement

February 27, 2009

EARNINGS AND AWARDS

2008 Base Salary, as of 12/31/08	$ [redacted]0
2009 Base Salary, effective March 1, 2009 : $ [redacted]**0**	
2008 Tax Refund	$ 1,475,816

Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

Loan Forgiven in 2009 as part of bonus:

2008 Other Awards

- 401K Match
- Defined Benefit

2008 Deferred Compensation

- Retention Award

[redacted]

Highland's Hedge Funds and Private Equity funds, for a variety of reasons, largely preclude redemptions and Highland Capital Management, L.P. may or may not be in a position to provide a cash equivalent upon triggering of any employee specific monetization. Therefore for this deferred compensation award and any previous awards of Option IT and STIP, Employee agrees to accept payment in kind settlement of any monetization if necessary. _____ (*Please Initial*)

2008 Total Earnings and Awards **$** [redacted]

HIGHLAND PAID BENEFITS

Medical
Dental
Basic and Dependent Life Insurance/AD&D
Short Term Disability and Long Term Disability
Executive LTD
Daily Catered Lunches
Blackberry
Parking

[redacted]

2008 Estimated Total Value of Highland Paid Benefits

TOTAL COMPENSATION PACKAGE $ [redacted]

Waiver and Release Payments in 2008 $ [redacted]0

ACCEPTED AND AGREED:

_____ _____

Patrick Daugherty **Date**

B1040 (FORM 1040) (12/24)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	**ADVERSARY PROCEEDING NUMBER** (Court Use Only)

PLAINTIFFS	**DEFENDANTS**
Highland Capital Management, L.P.	Patrick Hagaman Daugherty
ATTORNEYS (Firm Name, Address, and Telephone No.) Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067, Tel.: (310) 277-6910; and Hayward PLLC, 10501 N. Central Expressway, Suite 106, Dallas, TX 75231, Tel.: (972) 755-7100	**ATTORNEYS** (If Known)
PARTY (Check One Box Only) ☑ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☐ Creditor ☐ Other ☐ Trustee	**PARTY** (Check One Box Only) ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☑ Creditor ☐ Other ☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

Disallowance or estimation of claim under 11 U.S.C. 502 or subordination under 11 U.S.C. 510(b)

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(a) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☐ 14-Recovery of money/property - other

FRBP 7001(b) – Validity, Priority or Extent of Lien
- ☐ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(c) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(d) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(e) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(f) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(f) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(g) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(h) Subordination of Claim or Interest
- ☑ 81-Subordination of claim or interest

FRBP 7001(i) Declaratory Judgment
- ☐ 91-Declaratory judgment

FRBP 7001(j) Determination of Removed Action
- ☐ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☐ Check if this case involves a substantive issue of state law	☐ Check if this is asserted to be a class action under FRCP 23
☐ Check if a jury trial is demanded in complaint	Demand $

Other Relief Sought

Disallowance or estimation of claim under 11 U.S.C. 502

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Highland Capital Management, L.P.	BANKRUPTCY CASE NO. 19-34054-sgj11	
DISTRICT IN WHICH CASE IS PENDING Northern District of Texas	DIVISION OFFICE Dallas	NAME OF JUDGE Stacey G. C. Jernigan
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE May 2, 2025	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Zachery Z. Annable	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

PD-3

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 266326)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

HAYWARD PLLC
Melissa S. Hayward (Texas Bar No. 24044908)
Zachery Z. Annable (Texas Bar No. 24053075)
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110
Email: MHayward@HaywardFirm.com
ZAnnable@HaywardFirm.com

Counsel for Highland Capital Management, L.P.

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

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

REORGANIZED DEBTOR'S MOTION FOR ENTRY OF AN ORDER APPROVING SETTLEMENT WITH PATRICK HAGAMAN DAUGHERTY (CLAIM NO. 205) AND AUTHORIZING ACTIONS CONSISTENT THEREWITH

[1] The Reorganized Debtor's last four digits of its taxpayer identification number are (8357). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

193405421120800000000007
000280

TABLE OF CONTENTS

PAGE

JURISDICTION 1

RELEVANT BACKGROUND 2

A. Procedural Background 2

B. Procedural Overview of Mr. Daugherty's Claim 2

C. Summary of Mr. Daugherty's Claim 6

D. The Parties Engage in Arm's-Length Settlement Discussions 8

E. Summary of Settlement Terms 9

BASIS FOR RELIEF REQUESTED 10

NO PRIOR REQUEST 12

NOTICE 12

TABLE OF AUTHORITIES

Cases

Conn. Gen. Life Ins. Co. v. United Cos. Fin. Corp. (In re Foster Mortgage Corp.),
68 F.3d 914 (5th Cir. 1995)..... 11

In re Age Ref. Inc.,
801 F.3d 530 (5th Cir. 2015)..... 10, 11

Myers v. Martin (In re Martin),
91 F.3d 389 (3d Cir. 1996)..... 10

Official Comm. of Unsecured Creditors v. Cajun Elec. Power Coop. (In re Cajun Elec. Power Coop.),
119 F.3d 349 (5th Cir. 1997)..... 11

Rivercity v. Herpel (In re Jackson Brewing Co.),
624 F.2d 599 (5th Cir. 1980)..... 10

United States v. AWECO, Inc. (In re AWECO, Inc.),
725 F.2d 293 (5th Cir. 1984)..... 10

TO THE HONORABLE STACEY G. C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE:

Highland Capital Management, L.P., the above-captioned reorganized debtor (the "Reorganized Debtor" or "Debtor," as applicable), files this motion (the "Motion") for entry of an order, substantially in the form attached hereto as **Exhibit A**, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), approving a settlement agreement (the "Settlement Agreement"),[2] a copy of which is attached as Exhibit 1 to the *Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* being filed simultaneously with this Motion ("Morris Dec."), that, among other things, fully and finally resolves the proof of claim filed by Patrick Hagaman Daugherty ("Mr. Daugherty"). In support of this Motion, the Reorganized Debtor represents as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought herein are sections 105(a) and 363 of title 11 of the United States Code (the "Bankruptcy Code") and Rule 9019 of the Bankruptcy Rules.

[2] All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Settlement Agreement.

RELEVANT BACKGROUND

A. Procedural Background

3. On October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

4. On October 29, 2019, the official committee of unsecured creditors (the "Committee") was appointed by the U.S. Trustee in the Delaware Court.

5. On December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Court"). [Docket No. 186].[3]

6. On February 22, 2021, the Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Docket No. 1943] (the "Confirmation Order") with respect to the *Debtor's Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1808] (as subsequently modified, the "Plan").

7. The Plan went effective on August 11, 2021 (the "Effective Date") and, on that same date, the Reorganized Debtor filed the *Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 2700]. The Reorganized Debtor has commenced making distributions on certain allowed claims in accordance with the terms of the Plan.

B. Procedural Overview of Mr. Daugherty's Claim

8. Mr. Daugherty is a former employee and limited partner of the Debtor and previously served in other positions with affiliates and former affiliates of the Debtor.

[3] All docket numbers refer to the docket maintained by this Court.

9. At the time of his resignation, Mr. Daugherty owned 19.1% of the preferred units of Highland Employee Retention Assets LLC ("HERA"), an employee deferred-compensation vehicle managed by the Debtor and Highland ERA Management, LLC ("ERA Management"). Mr. Daugherty contends that he owned or had the right to own all of the preferred units of HERA.

10. In April 2012, following Mr. Daugherty's resignation and while under the control of James Dondero ("Mr. Dondero"), the Debtor commenced an action against Mr. Daugherty in Texas state court (the "Texas Action"), and Mr. Daugherty subsequently asserted (i) counterclaims for breach of contract and defamation, and (ii) third-party claims against HERA and others.

11. After a three-week trial, (a) the Debtor obtained a verdict on its claims against Mr. Daugherty for breach of contract and breach of fiduciary duty and obtained an award of $2.8 million in attorney's fees; and (b) Mr. Daugherty obtained a verdict on his claims against the Debtor and Mr. Dondero for defamation with malice and a third-party claim against HERA and obtained an award of $2.6 million against HERA (the "HERA Judgment"). The HERA Judgment was affirmed on appeal on December 1, 2016.

12. In July 2017, after being unable to collect on the HERA Judgment, Mr. Daugherty commenced an action against the Debtor, Mr. Dondero, HERA, and ERA Management in the Delaware Chancery Court (the "Chancery Court") in a case captioned *Daugherty v. Highland Capital Management, L.P., et al.*, C.A. No. 2017-0488-MTZ, for, among other claims, fraudulent transfer, promissory estoppel, unjust enrichment, indemnification, and "fees on fees" (the "Highland Chancery Case").

13. In the spring of 2019, the Chancery Court in the Highland Chancery Case (i) found that the Dondero-related defendants improperly withheld dozens of documents in discovery on privilege grounds, and (ii) ruled that there was "a reasonable basis to believe that a fraud has been perpetrated" such that the Chancery Court applied the "crime-fraud exception" to

the attorney-client privilege. Mr. Daugherty asserts that the defendants' failure to provide required discovery injured him by undermining his attempts to build an evidentiary record to support his claims against the Debtor and the other defendants in the Highland Chancery Case.

14. On October 14, 2019, the Highland Chancery Case proceeded to trial, but on October 16, 2019, before the trial was completed and before the Chancery Court ruled on Mr. Daugherty's and the Debtor's cross-motions for summary judgment regarding indemnification and fees on fees, the Debtor filed for bankruptcy.

15. On December 1, 2019, Mr. Daugherty filed a separate lawsuit in the Chancery Court captioned *Daugherty v. Dondero, et al.*, C.A. No. 2019-0956-MTZ, against Mr. Dondero, HERA, ERA Management, Hunton Andrews Kurth LLP, Marc Katz, Michael Hurst, the Debtor's then-chief compliance officer, and the Debtor's then in-house counsel, Isaac Leventon and Scott Ellington, for conspiracy to commit fraud among other claims (the "HERA Chancery Case" and together with the Highland Chancery Case, the "Chancery Cases").

16. On April 1, 2020, Mr. Daugherty filed a general, unsecured, non-priority claim against the Debtor in the amount of at "least $37,483,876.59," and such claim was denoted by the Debtor's claims agent as Proof of Claim No. 67 ("Proof of Claim No. 67").

17. On April 6, 2020, Mr. Daugherty filed a general, unsecured, non-priority claim against the Debtor in the amount of at "least $37,483,876.59" that superseded Proof of Claim No. 67 and that was denoted by the Debtor's claims agent as Proof of Claim No. 77 ("Proof of Claim No. 77").

18. On August 31, 2020, the Debtor commenced an adversary proceeding against Mr. Daugherty by filing a complaint (the "Complaint") in which the Debtor: (1) objected to Proof of Claim No. 77 on various grounds (the "Claim Objection"), and (2) asserted a cause of action for the subordination of part of Mr. Daugherty's Claim pursuant to section 510(b) of the

Bankruptcy Code. *See* Adv. Proc. No. 20-03107 (the "Adv. Proc.") [Adv. Docket No. 1] (the "Adversary Proceeding").

19. On September 29, 2020, Mr. Daugherty filed his answer to the Complaint [Adv. Docket No. 8] (the "Answer").

20. On September 24, 2020, Mr. Daugherty filed his *Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay* [Docket No. 1099] (the "Comfort Motion") pursuant to which he sought to sever the Debtor from the Highland Chancery Case and then consolidate the remaining claims in the Highland Chancery Case into the HERA Chancery Case and proceed with one case against the non-debtors.[4]

21. On October 23, 2020, Mr. Daugherty filed a motion seeking leave to amend his Proof of Claim [Docket No. 1280] (the "POC Amendment Motion"). The amended proof of claim attached to the POC Amendment Motion increased Mr. Daugherty's general, unsecured, non-priority claim against the Debtor to the amount of at "least $40,710,819.42" and sought to supersede Proof of Claim No. 67 and Claim No. 77.

22. On October 23, 2020, Mr. Daugherty filed his *Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Motion* seeking for his Claim to be temporarily allowed for voting purposes in the amount of $40,710,819.42 [Docket No. 1281] (the "3018 Motion").

23. On November 9, 2020, the Debtor filed its *Objection to Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Motion* [Docket No. 1349] (the "3018 Objection").

[4] On October 8, 2020, the Debtor commenced a second adversary proceeding against Mr. Daugherty (the "Second Adversary Proceeding"), seeking to enjoin him from prosecuting the Chancery Cases. Adv. Proc. 20-03128 ("2d Adv. Proc.") [2d Adv. Proc. Docket No. 1]. On January 29, 2021, the parties filed a Settlement that resolved the Second Adversary Proceeding, and the Second Adversary Proceeding was subsequently dismissed with prejudice. [2d Adv. Proc. Docket No. 12].

24. After conducting an evidentiary hearing with respect to the 3018 Motion, the Court entered an order temporarily allowing Mr. Daugherty's Claim for voting purposes in the amount of $9,134,019 [Docket No. 1474] (the "Rule 3018 Order").

25. On November 3, 2020, the Court granted the Comfort Motion [Docket No. 1327].

26. On December 10, 2020, the Court entered an order [Docket No. 1533] granting the POC Amendment Motion permitting Mr. Daugherty to amend his proof of claim. On December 23, 2020, Mr. Daugherty filed an amended proof of claim, designated by the Debtor's claim agent as Proof of Claim No. 205 ("Proof of Claim No. 205" or the "Daugherty Claim"). Proof of Claim No. 205 increased the amount of the Daugherty Claim to $40,710,819.42.

27. On November 30, 2020, Mr. Daugherty filed his *Motion to Lift the Automatic Stay* (the "Lift Stay Motion") [Docket No. 1491] seeking to lift the automatic stay to allow him to finish his trial in the Chancery Court and liquidate his claims. The Debtor opposed the Lift Stay Motion, and after a hearing was held on December 17, 2020, the Court denied the relief requested in the Lift Stay Motion [Docket No. 1612].

28. Except with respect to the Reserved Claim (as defined in the Settlement Agreement), the Parties have agreed to settle and resolve all claims and disputes between them, including the Daugherty Claim, on the terms set forth in the Settlement Agreement.

C. Summary of Mr. Daugherty's Claim

29. As generally described above, prior to the Petition Date, Mr. Daugherty on the one hand, and the Debtor, Mr. Dondero, other entities controlled by Mr. Dondero, and individuals then employed by the Debtor or otherwise associated with Mr. Dondero on the other hand, were embroiled in more than nine (9) years of highly contentious litigation involving a multitude of claims and counterclaims (the "Pre-Petition Litigation").

30. The Pre-Petition Litigation played out in front of a jury in Texas state court and wound its way through the state appellate courts. Thereafter, Mr. Daugherty opened a new front by commencing the Highland Chancery Case in the Chancery Court where he sought to hold the defendants to account for leaving HERA "judgment proof" and unable to satisfy the HERA Judgment that Mr. Daugherty had obtained.

31. While Mr. Dondero's decision to sue Mr. Daugherty in the Texas Action was questionable, his decisions to (a) continue fighting the HERA Judgment rather than accepting the net economic benefits awarded, and (b) fraudulently transfer HERA's assets leaving it "judgment proof" proved to be a disaster because it cost millions of dollars in legal fees and left the Debtor and related entities exposed to claims and liability for substantial wrongdoing.

32. The Daugherty Claim attaches and incorporates his operative complaint in the Highland Chancery Case and other voluminous documentation. The Daugherty Claim has the following components:

- Enforcement of the HERA Judgment against the Debtor, pursuant to unjust enrichment, promissory estoppel and fraudulent transfer claims, in the amount of $2.6 million plus prepetition interest of $1.22 million. (Mr. Daugherty contends that interest has continued to accrue post-petition);

- The estimated value of the HERA assets transferred to the Debtor on the theory that Daugherty owns 100% of HERA because the Debtor was not permitted to acquire the interests that it purchased from the former members and Daugherty was the last remaining interest holder. This allegedly leaves Mr. Daugherty by default as the 100% owner of the HERA Assets, which Mr. Daugherty asserts are worth at least $26.2 million as a whole;

- Indemnification for attorneys' fees, expenses, and interest of approximately $5.4 million incurred in the Texas Action under the Debtor's partnership agreement for actions Daugherty contends were taken in furtherance of his obligations to investors and funds under the Investment Advisors Act of 1940;

- Compensation as a former employee of the Debtor that Daugherty contends is contingent on the outcome of an audit of the Debtor's 2008/2009 tax returns and related expenses. Mr. Daugherty estimates this claim at approximately $2.7 million;

- Fee shifting and fees on fees that Daugherty contends are due to the bad faith actions of the Debtor, its officers, and agents in the Chancery Court. Daugherty estimates this claim at approximately $2.5 million; and

- Other related claims described in the Daugherty Claim for approximately $0.2 million.

33. The Debtor previously informed the Court that it does not object to Mr. Daugherty's claims related to the HERA Judgment ($2.6 Million, plus interest calculated at approximately $1.22 million as of about a year ago).

34. For a recitation of the Debtor's defenses to Daugherty's Claim, the Debtor incorporates by reference its 3018 Objection.

D. The Parties Engage in Arm's-Length Settlement Discussions

35. Although counsel for the Parties argued over the merits of, and the defenses to, the Daugherty Claim throughout the fall, they began discussing a possible resolution of Daugherty's Claim after the Court entered the 3018 Order.

36. In the days leading up to the Confirmation Hearing, those discussions evolved into substantive negotiations, and counsel for the parties exchanged various proposals and counterproposals in an effort to reach an agreement.

37. With the advice of counsel, James P. Seery, Jr., the Debtor's Chief Executive Officer, took the lead in the negotiations (directly and through counsel) and briefed the Independent Board on the progress.

38. The negotiations bore fruit. On February 2, 2021, at the commencement of the Confirmation Hearing, and with the unanimous approval of the Independent Board, Debtor's counsel announced that it had reached an agreement with Mr. Daugherty (subject to the execution of definitive documentation and Court approval) and read the principal terms into the record.

39. For a variety of reasons, documenting the agreement took more time than expected. For example, in the weeks and months that followed, (1) the principals and their counsel

addressed the implications of the Sentinel Disclosures (as that term is defined below); (2) the tasks related to getting to the Effective Date took a higher priority; (3) the Reorganized Debtor had to educate the newly appointed Oversight Board on the background and litigation concerning, and the proposed resolution of, the Daugherty Claim; (4) the parties exchanged numerous iterations of the Settlement Agreement and ancillary documents; and (5) frankly, it was difficult to get Mr. Daugherty to say "yes" as he sought very hard to improve the economic and non-economic terms of the deal based on certain revelations in the ensuing months (which, of course, was his right).

E. Summary of Settlement Terms

40. The Settlement Agreement contains the following material terms, among others:

- Mr. Daugherty shall receive an allowed general unsecured, non-priority Class 8 claim in the amount of $8.25 million;
- Mr. Daugherty shall receive an allowed subordinated general unsecured, non-priority Class 9 claim in the amount of $3.75 million;
- Mr. Daugherty shall receive a one-time lump sum payment in the amount of $750,000 to be paid within five business days of Bankruptcy Court approval of this Settlement Agreement;
- Releases shall be exchanged as provided for in paragraphs 3 through 6 of the Settlement Agreement;
- The Reorganized Debtor shall transfer its interests in HERA and ERA to Mr. Daugherty in accordance with paragraph 6 of the Settlement Agreement;
- The Parties shall cooperate to terminate all litigation in accordance with paragraphs 9 and 10 of the Settlement Agreement; and
- The Parties shall adhere to certain other non-economic matters agreed to by them as specifically set forth in the Settlement Agreement.

See generally Morris Dec. Exhibit 1.[5]

[5] With two exceptions, these settlement terms are materially the same as those announced on the record on February 2, 2021 in connection with the confirmation hearing on the Debtor's Plan. The two exceptions are that (a) the Class 9 claim was increased by $1 million, and (b) the Reorganized Debtor agreed to transfer its interests in HERA and ERA to Mr. Daugherty. The former change was intended to take into account the increased risk to the Debtor arising from

BASIS FOR RELIEF REQUESTED

41. Bankruptcy Rule 9019 governs the procedural prerequisites to approval of a settlement, providing that:

> On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

FED. R. BANKR. P. 9019(a).

42. Settlements in bankruptcy are favored as a means of minimizing litigation, expediting the administration of the bankruptcy estate, and providing for the efficient resolution of bankruptcy cases. *See Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996); *Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 602 (5th Cir. 1980). Pursuant to Bankruptcy Rule 9019(a), a bankruptcy court may approve a compromise or settlement as long as the proposed settlement is fair, reasonable, and in the best interest of the estate. *See In re Age Ref. Inc.*, 801 F.3d 530, 540 (5th Cir. 2015). Ultimately, "approval of a compromise is within the sound discretion of the bankruptcy court." *See United States v. AWECO, Inc. (In re AWECO, Inc.)*, 725 F.2d 293, 297 (5th Cir. 1984); *Jackson Brewing*, 624 F.2d at 602–03.

43. In making this determination, the United States Court of Appeals for the Fifth Circuit applies a three-part test "with a focus on comparing 'the terms of the compromise with the rewards of litigation.'" *Official Comm. of Unsecured Creditors v. Cajun Elec. Power Coop. (In re Cajun Elec. Power Coop.)*, 119 F.3d 349, 356 (5th Cir. 1997) (citing *Jackson Brewing*,

---

the post-confirmation discovery and disclosures related to Sentinel (the "Sentinel Disclosures"). *See UBS Secs. LLC v. Highland Capital Mgmt., L.P.*, Adv. Pro. No. 21-03020. The latter concerned Mr. Daugherty's final demand that the Debtor agreed to because (i) Mr. Daugherty continues to retain his claims against HERA and ERA and their respective officers, directors, and agents; (ii) HERA and ERA no longer have any tangible assets; (iii) the HERA Releasing Parties are confirming that they have no claims against and are releasing the HCMLP Released Parties pursuant to the HERA and ERA Release; and (iv) Mr. Daugherty insisted on this final term which, in the overall package, was not material under the Debtor's Plan or otherwise.

624 F.2d at 602). The Fifth Circuit has instructed courts to consider the following factors: "(1) The probability of success in the litigation, with due consideration for the uncertainty of law and fact, (2) The complexity and likely duration of the litigation and any attendant expense, inconvenience and delay, and (3) All other factors bearing on the wisdom of the compromise." *Id.* Under the rubric of the third factor referenced above, the Fifth Circuit has specified two additional factors that bear on the decision to approve a proposed settlement. First, the court should consider "the paramount interest of creditors with proper deference to their reasonable views." *Id.*; *Conn. Gen. Life Ins. Co. v. United Cos. Fin. Corp. (In re Foster Mortgage Corp.)*, 68 F.3d 914, 917 (5th Cir. 1995). Second, the court should consider the "extent to which the settlement is truly the product of arms-length bargaining, and not of fraud or collusion." *Age Ref. Inc.*, 801 F.3d at 540; *Foster Mortgage Corp.*, 68 F.3d at 918 (citations omitted).

44. There is ample basis to approve the proposed Settlement Agreement based on the Rule 9019 factors set forth by the Fifth Circuit.

45. First, although the Reorganized Debtor believes that it has valid defenses to the Daugherty Claim, there is no guarantee that the Reorganized Debtor would succeed in its litigation with Daugherty. Indeed, to establish its defenses, the Reorganized Debtor would be required to rely, at least in part, on the credibility of witnesses whose veracity has already been called into question by this Court. Moreover, the events giving rise to Mr. Daugherty's claims arose over five years ago, raising considerable questions about the reliability of those witnesses' recollection.

46. The second factor—the complexity, duration, and costs of litigation—also weighs heavily in favor of approving the Settlement Agreement. As this Court is aware, the events forming the basis of the Daugherty Claim—including the Texas Action and the Highland Chancery Case—proceeded *for years* and have already cost the Debtor's estate millions of dollars in legal

fees. If the Settlement Agreement is not approved, then the parties will expend significant resources litigating a host of fact-intensive issues including, among other things, the conduct of Mr. Dondero and the other defendants in the pending Chancery Actions.

47. Third, approval of the Settlement Agreement is justified by the paramount interest of creditors. Specifically, the settlement will enable the Reorganized Debtor to: (a) avoid incurring substantial litigation costs; and (b) avoid the litigation risk associated with Daugherty's $40 million claim. Notably, as set forth in its 3018 Objection, and regardless of whether this settlement is approved, the Debtor has already conceded liability of almost $4 million in connection with the HERA Judgment, making the risk/reward analysis compelling.

48. Finally, the Settlement Agreement was unquestionably negotiated at arm's-length. The terms of the settlement are the result of numerous, ongoing discussions and negotiations between the parties and represent neither party's "best case scenario." Indeed, the Settlement Agreement should be approved as a rational exercise of the Reorganized Debtor's business judgment made after due deliberation of the facts and circumstances concerning Daugherty's Claim.

NO PRIOR REQUEST

49. No previous request for the relief sought herein has been made to this, or any other, Court.

NOTICE

50. Notice of this Motion shall be given to the following parties or, in lieu thereof, to their counsel, if known: (a) counsel for Mr. Daugherty; (b) the Office of the United States Trustee; (c) the Office of the United States Attorney for the Northern District of Texas; and (d) parties requesting notice pursuant to Bankruptcy Rule 2002. The Reorganized Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Reorganized Debtor respectfully requests entry of an order, substantially in the form attached hereto as Exhibit A, (a) granting the relief requested herein, and (b) granting such other relief as is just and proper.

Dated: December 8, 2021.

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
Ira D. Kharasch (CA Bar No. 109084)
John A. Morris (NY Bar No. 266326)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
ikharasch@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward (Texas Bar No. 24044908)
Zachery Z. Annable (Texas Bar No. 24053075)
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110
Email: MHayward@HaywardFirm.com
ZAnnable@HaywardFirm.com

Counsel for Highland Capital Management, L.P.

EXHIBIT A

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

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

ORDER GRANTING REORGANIZED DEBTOR'S MOTION FOR ENTRY OF AN ORDER APPROVING SETTLEMENT WITH PATRICK HAGAMAN DAUGHERTY (CLAIM NO. 205) AND AUTHORIZING ACTIONS CONSISTENT THEREWITH

This matter having come before the Court on the *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Docket No. ____] (the "Motion")[2] filed by Highland Capital Management, L.P., the above-captioned reorganized debtor (the "Reorganized Debtor" or "Debtor", as applicable); and this Court having considered (a) the Motion; (b) the *Declaration of*

[1] The Reorganized Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

[2] Capitalized terms not otherwise defined in this order shall have the meanings ascribed to them in the Motion.

John A. Morris in Support of the Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith [Docket No. ____] (the "Morris Declaration") and the exhibits annexed thereto, including the Settlement Agreement attached as Exhibit 1 (the "Settlement Agreement"); and (c) the arguments and law cited in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties-in-interest; and this Court having found the Settlement Agreement fair and equitable; and this Court having analyzed (1) the probability of success in litigating the claims subject to the Settlement Agreement, with due consideration for the uncertainty in fact and law; (2) the complexity and likely duration of litigation and any attendant expense, inconvenience, and delay; and (3) all other factors bearing on the wisdom of the compromise, including: (i) the best interests of the creditors, with proper deference to their reasonable views; and (ii) the extent to which the settlement is truly the product of arm's-length bargaining, and not of fraud or collusion; and this Court having found that the Reorganized Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion and all other documents filed in support of the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish good cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is hereby **ORDERED** that:

1. The Motion is **GRANTED** as set forth herein.

2. The Settlement Agreement attached hereto as **Exhibit 1** is approved in all respects pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure.

3. The Reorganized Debtor, Mr. Daugherty, and all other parties are authorized to take any and all actions necessary and desirable to implement the Settlement Agreement.

4. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

###End of Order###

PD-4

Jason P. Kathman
State Bar No. 24070036
PRONSKE & KATHMAN, P.C.
2701 Dallas Pkwy, Suite 590
Plano, Texas 75093
(214) 658-6500 – Telephone
(214) 658-6509 – Telecopier
Email: jkathman@pronskepc.com

COUNSEL FOR
PATRICK DAUGHERTY

Thomas A. Uebler
Pro Hac Vice Pending
Joseph L. Christensen
Pro Hac Vice
MCCOLLOM D'EMILIO
SMITH UEBLER LLC
Little Falls Centre Two
2751 Centerville Road, Suite 401
Wilmington, Delaware 19808
(302) 468-5960 – Telephone
(302) 6691-6834 – Facsimile

COUNSEL FOR
PATRICK DAUGHERTY

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

In re:	§	
	§	**CASE NO. 19-34054-SGJ-11**
HIGHLAND CAPITAL MANAGEMENT, L.P	§	
	§	**CHAPTER 11**
	§	
Debtor.	§	

PATRICK HAGAMAN DAUGHERTY'S
MOTION FOR TEMPORARY ALLOWANCE OF CLAIM FOR
VOTING PURPOSES PURSUANT TO BANKRUPTCY RULE 3018

TO THE HONORABLE STACEY G. C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE:

Patrick Daugherty ("**Daugherty**") by and through his undersigned counsel, submits this motion (the "**Motion**") for entry of an order, substantially in the form attached hereto as **Exhibit A** (the "**Order**"), pursuant to Rule 3018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") temporarily allowing Daugherty's claims in full for plan voting purposes *only*. Daugherty also concurrently files his Memorandum of Law and Brief in Support of the Motion (the "**Brief**") and Appendix (the "**Appendix**") in support. In support of the Motion, Daugherty respectfully states as follows:

1. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. § 1409.

2. On October 16, 2019 (the "**Petition Date**"), the Debtor filed its voluntary petition for bankruptcy under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Delaware Bankruptcy Court**").

3. On October 29, 2019, the Official Committee of Unsecured Creditors (the "**Committee**") was appointed by the United States Trustee for in Delaware.

4. On December 4, 2019, the Delaware Bankruptcy Court entered an order transferring this case to this Court.

5. On April 1, 2020, Daugherty filed Proof of Claim No. 67, in an amount not less than $37,483,876.62, which was later amended on April 6, 2020 as Proof of Claim No. 77.

6. On August 31, 2020, the Debtor filed its Objection to Claim No. 77 of Patrick Hagaman Daugherty and (II) Complaint to Subordinate Claim of Patrick Hagaman Daugherty [Docket No. 1008] (the "**Adversary Complaint**") in this case, initiating *Highland Capital Management, L.P. v. Daugherty*, Adversary No. 20-03107 before this Court (the "**Adversary Proceeding**").

7. On September 21, 2020, the Debtor filed its First Amended Plan of Reorganization [Docket No. 1079] (the "**Plan**") and Disclosure Statement [Docket No. 1080] (the "**Disclosure Statement**"). A hearing on Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of

Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice [Docket No. 1108], filed on September 28, 2020, is currently set for hearing on October 27, 2020 at 10:30 a.m. central.

8. Filed contemporaneously herewith, Daugherty has filed his Motion for Leave to Amend Proof of Claim No. 77 (the "**Motion to Amend POC**"). As explained more fully in the Motion to Amend POC, the proposed amendment to Daugherty's proof of claim does not add any additional bases or claims, but rather provides a definitive amount for one aspect of the claim, and provides further clarity as to other parts of the claim. The proposed amended proof of claim attached to the Motion to Amend POC asserts a claim in the amount of $40,710,819.42.

9. For the reasons identified and explained in the Brief, Daugherty respectfully requests that the Court enter an order allowing his claim, for voting purposes only, in the amount of $40,710,819.42.

WHEREFORE, PREMISES CONSIDERED, Daugherty respectfully requests that the Court enter an order allowing his claim, for voting purposes only, in the amount of $40,710,819.42 and granting such other and further relief to which the Debtor may be justly entitled.

Dated: October 23, 2020.

Respectfully submitted,

/s/ Jason P. Kathman
Jason P. Kathman
State Bar No. 24070036
Megan F. Clontz
State Bar No, 24069703
PRONSKE & KATHMAN, P.C.
2701 Dallas Pkwy, Suite 590
Plano, Texas 75056
(214) 658-6500 - Telephone
(214) 658-6509 – Telecopier
Email: jkathman@pronskepc.com
Email: mclontz@pronskepc.com

- And –

Thomas A. Uebler
Pro Hac Vice to be filed
Joseph L. Christensen
Pro Hac Vice to be filed
MCCOLLUM D'EMILIO
SMITH UEBLER LLC
Little Falls Centre Two
2751 Centerville Road, Suite 401
Wilmington, Delaware 19808
(302) 468-5960 – Telephone
(302) 6691-6834 – Facsimile
Email: tuebler@mdsulaw.com
Email: jchristensen@mdsulaw.com

COUNSEL FOR DEFENDANT,
PATRICK HAGAMAN DAUGHERTY

Exhibit A

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

In re:	§	
	§	**CASE NO. 19-34054-SGJ-11**
HIGHLAND CAPITAL MANAGEMENT, L.P	§	
	§	**CHAPTER 11**
	§	
Debtor.	§	

PATRICK HAGAMAN DAUGHERTY'S MOTION FOR TEMPORARY ALLOWANCE OF CLAIM FOR VOTING PURPOSES PURSUANT TO BANKRUPTCY RULE 3018

CAME ON FOR CONSIDERATION the Motion For Temporary Allowance of Claim For Voting Purposes Pursuant To Bankruptcy Rule 3018 (the "**Motion**") filed by Patrick Hagaman Daugherty ("**Daugherty**"), and the Court finds that it has jurisdiction over this matter, that venue is proper, and that sufficient notice of the Motion has been given to all parties requiring notice. The Court has determined that the legal and factual bases set forth in the Motion and the Brief in Support of the Motion establish just cause for the relief granted herein. It is therefore

ORDERED that the Motion is **GRANTED**. It is further

ORDERED that any and all Objections to the Motion are **OVERRULED**. It is further

ORDERED that Patrick Hagaman Daugherty is **ALLOWED,** on a temporary basis and for voting purposes only, a claim in the amount of $40,710,819.42. It is further

ORDERED that Daugherty may to vote to accept or reject the Debtor's First Amended Plan of Reorganization and/or subsequent plan amendments.

END OF ORDER

Submitted by:

/s/ Jason P. Kathman
Jason P. Kathman
Texas Bar No. 24070036
Megan F. Clontz
Texas Bar No. 24069703
PRONSKE & KATHMAN, P.C.
2701 Dallas Parkway, Suite 590
Plano, Texas 75093
Telephone: 214.658.6500
Facsimile: 214.658.6509
Email: jkathman@pronskepc.com
Email: mclontz@pronskepc.com

-- AND –

Thomas A. Uebler
Pro Hac Vice to be filed
Joseph L. Christensen
Pro Hac Vice to be filed
MCCOLLUM D'EMILIO
SMITH UEBLER LLC
Little Falls Centre Two
2751 Centerville Road, Suite 401
Wilmington, Delaware 19808
(302) 468-5960 – Telephone
(302) 6691-6834 – Facsimile
Email: tuebler@mdsulaw.com
Email: jchristensen@mdsulaw.com

COUNSEL FOR DEFENDANT,
PATRICK HAGAMAN DAUGHERTY

PD-5

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

In Re:	**Case No. 19-34054-sgj-11**
	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	Dallas, Texas
	Tuesday, November 17, 2020
	1:30 p.m. Docket
Debtor.	
	PATRICK DAUGHERTY'S MOTION FOR TEMPORARY ALLOWANCE OF CLAIM FOR VOTING PURPOSES
	[1281]

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE STACEY G.C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE.

WEBEX APPEARANCES:

For the Debtor:	John A. Morris PACHULSKI STANG ZIEHL & JONES, LLP 780 Third Avenue, 34th Floor New York, NY 10017-2024 (212) 561-7700
For the Debtor:	Jeffrey N. Pomerantz PACHULSKI STANG ZIEHL & JONES, LLP 10100 Santa Monica Blvd., 13th Floor Los Angeles, CA 90067-4003 (310) 277-6910
For Patrick Daugherty:	Jason Patrick Kathman PRONSKE & KATHMAN, P.C. 2701 Dallas Parkway, Suite 590 Plano, TX 75093 (214) 658-6500
For Patrick Daugherty:	Thomas A. Uebler Joseph L. Christensen MCCOLLOM D'EMILIO SMITH UEBLER, LLC Little Falls Centre Two 2751 Centerville Road, Suite 401 Wilmington, Delaware 19808 (302) 468-5960

For the Official Committee of Unsecured Creditors:	Matthew A. Clemente SIDLEY AUSTIN, LLP One South Dearborn Chicago, IL 60603 (312) 853-7539
Recorded by:	Michael F. Edmond, Sr. UNITED STATES BANKRUPTCY COURT 1100 Commerce Street, 12th Floor Dallas, TX 75242 (214) 753-2062
Transcribed by:	Kathy Rehling 311 Paradise Cove Shady Shores, TX 76208 (972) 786-3063

Proceedings recorded by electronic sound recording; transcript produced by transcription service.

DALLAS, TEXAS - NOVEMBER 17, 2020 - 1:38 P.M.

THE CLERK: All rise. The United States Bankruptcy Court for the Northern District of Texas, Dallas Division, is now in session, the Honorable Stacey Jernigan presiding.

THE COURT: Good afternoon. Please be seated. We have a setting we'll start now in Highland, Case No. 19-34054. We have a motion of Patrick Daugherty to have his claim allowed for voting purposes under Bankruptcy Rule 3018. For Mr. Daugherty, who do we have appearing? Do we have Mr. Kathman and crew?

MR. KATHMAN: Good afternoon, Your Honor. Jason Kathman on behalf of Mr. Daugherty. I'm also joined today by my co-counsel in Delaware, Tom Uebler and Joe Christensen with the firm McCollum D'Emilio Smith & Uebler, LLC. They've been admitted *pro hac vice* in this case and they're going to be handling the case this morning for our side, Your Honor. We also have on the phone and in the WebEx today Mr. Daugherty as well.

THE COURT: All right. Very good. I see Mr. Morris up there. Are you going to be taking the lead for the Debtor this afternoon?

THE CLERK: He's on mute.

THE COURT: You're on mute, sir.

MR. MORRIS: Thank you very much. Yes, I -- yes, I will, Your Honor. It's John Morris from Pachulski Stang Ziehl

& Jones for the Debtor.

With the agreement of all of the parties, before we begin my partner Mr. Pomerantz would like to just briefly update the Court on certain plan issues, and then we'd like to proceed to the matter on the schedule.

THE COURT: All right. That is fine. So, we'll -- first off, I'm just going to note we have a lot of other participants showing on the video screen. I'm not going to take other appearances. I assume they're just interested observers today. The only pleadings on the contested matter were filed by Daugherty and the Debtor. But certainly if someone at some point has something to say regarding the case generally, I'm happy to hear anything people want to report.

So, with that, Mr. Pomerantz, what would you like to say?

MR. POMERANTZ: So, thank you, Your Honor. As Mr. Morris mentioned, I thought I would give Your Honor a brief update. We haven't been here in a couple of weeks, which has seemed like a lifetime, but I wanted to apprise the Court last Friday night the Debtor filed an amended plan and disclosure statement, pursuant to the Court's prior scheduling order. We also filed the infamous plan supplement, which was discussed in a lot of detail at the last hearing, which contained drafts, advance drafts of the principal plan implementation documents likely to be of interest to the creditors, including the Claimant Trust Agreement, the Liquidating Trust Agreement,

other corporate organizational documents, and a list of retained causes of action under the plan.

And I'm pleased to report that over the last couple of weeks the Debtor and the Committee have made substantial progress in addressing the disputed issues that were forefront at the hearing on October 27th.

Such progress included a resolution of the structure and consideration relating to the releases to be provided under the plan; the identity of the independent board members and the Liquidating Trustee, or Litigation Trustee, excuse me; substantial agreement on the form of the Claimant Trust Agreement and the Litigation Trust agreement; and the inclusion of a protocol to address how disputed claims will be resolved.

While there are a few issues left to be resolved and ironed out between the Debtor and the Committee, (audio gap) can be resolved by Monday. We believe that as it relates to the Committee's issues next week, the hearing will largely be consensual, and we extend the opportunity to other parties who objected, including UBS, who has already reached out to us with a couple of comments they have, as well as we suggest that Mr. Daugherty and HarbourVest also reach out to us in advance of that hearing so that we can work through as many issues.

So, we took Your Honor's comments last week to heart, and

I think the parties have worked cooperatively to streamline to what I think will be a narrow set of issues, if any, that will be up for hearing on Monday, Your Honor.

THE COURT: Okay. That's very good to hear. I'll just check: Is Committee counsel on the line and do you wish to respond to that?

MR. CLEMENTE: Your Honor, it's Matt Clemente at Sidley. Can you hear me?

THE COURT: I can.

MR. CLEMENTE: Oh, hi, yeah, good afternoon, Your Honor. As Mr. Pomerantz I think has accurately captured of the current state of play, so we took the time that Your Honor wisely gave us and I think we worked very, very hard and I think we have come to conclusion on, you know, a variety of the issues that we had. Mr. Pomerantz is correct, there's a hearing full of things that we still need to discuss, Your Honor. But I would expect that either we come to a resolution on those or those are things that, you know, ultimately can be dealt with in connection with plan confirmation itself. But I agree with Mr. Pomerantz's comments.

THE COURT: Okay. Very good. Well, I hope all of you will keep working at it. You've got almost a week until we're here next Monday. So, UBS and the others, I really hope you will accept the invitation of Mr. Pomerantz you heard just now to talk to him and see if you can get your issues worked

out.

All right. Well, we did note that you had filed the documents Friday night, and I think I know what my weekend activity is going to be besides, you know, watching my Longhorns: Reading the Highland disclosure statement and plan supplement. So, anyway, I look forward to doing that, and I will hope for a somewhat smooth hearing Monday, if not an entirely smooth hearing.

All right. Thank you for that report, Mr. Pomerantz.

MR. POMERANTZ: You're very welcome, Your Honor.

THE COURT: Okay. Thank you. All right. Well, let's turn to the matter at hand, the motion. You all have blessed me with lots of papers to read and exhibits for today. We have a two-hour time estimate, so I hope you will do your best to stick with that.

As far as your presentations today, let me tell you that I really don't need you to spend much time, if any, arguing the law, Bankruptcy Rule 3018(a), the case law construing it. I'm pretty familiar. It says such things as the Rule contemplates a summary estimation proceeding, not a full trial on the merits. The Court has a lot of discretion. So please don't argue the 20 or 30 cases that are out there that interpret Rule 3018. I'd really like to focus on the numbers more than anything else.

And so as far as opening statements, I'm going to turn to

-- I don't know if it will be Mr. Uebler or Mr. Christensen -- and ask you right off the bat: Why is the Debtors' suggested compromise of $9,134,019 not a fair resolution, when we all know that you can argue entitlement to every penny in that $40 million plus proof of claim ultimately in the adversary proceeding, in the trial on the proof of claim, but for now, it looks like the Debtor has put out a pretty reasonable olive branch? So let me just put you on the spot and ask you to start there in your opening statement.

MR. UEBLER: Thank you, Your Honor. This is Tom Uebler on behalf of Patrick Daugherty.

While it is a generous offer, it leaves disputed $31 -- approximately $31 million with respect to Mr. Daugherty's claims. The Debtor has agreed to the amount of Mr. Daugherty's 2012 Texas court judgment, plus interest, and the Debtor has also agreed to the unjust enrichment and promissory estoppel damages from the Delaware case in the amount of approximately $5 million. But what the Debtor refuses to agree to or acknowledge any potential liability for are the three other subparts of Mr. Daugherty's claim.

The first of those subparts is what we're calling the Reimbursement Claims, and that includes Mr. Daugherty's claims for contractual indemnification under Highland's partnership agreement. And it includes fees on fees -- at least that's how we refer to it in Delaware -- which are fees expended by

Mr. Daugherty in seeking to establish his indemnification rights in Delaware. And finally, fee shifting, for what we have laid out as a decade pattern of litigation misconduct by Highland against Mr. Daugherty.

The Debtor also disputes Mr. Daugherty's claim for the remaining 80.9 percent of the value of HERA, Highland Employee Retention Assets. That claim is valued at approximately $21.2 million.

And finally, --

THE COURT: Let me stop you. Let me stop you there, because that's obviously a big, big, big chunk of the disparity. Remind me. Either you lost on that in Delaware, or I'm trying to remember, you abandoned it, you somehow had an adverse ruling in Delaware. Remind me real quick what that was.

MR. UEBLER: We did. We had an adverse ruling. We brought claims in Delaware as part of Mr. Daugherty's original pleading in 2017. And those were claims for breach of fiduciary duty, aiding and abetting breach of fiduciary duty. Ultimately, Mr. Daugherty was seeking to put back into HERA the millions of dollars that Highland had taken from HERA in 2013 and then to dissolve HERA. And it's Mr. Daugherty's position that he is the 100 percent owner of HERA at this point in time.

The Delaware Court of Chancery dismissed that portion of

Mr. Daugherty's pleading on *laches* grounds, finding that --

THE COURT: Yes.

MR. UEBLER: -- Mr. Daugherty should have filed that claim sooner. We argued that he was excused from the limitations period because there was an open question in the Texas courts about whether Mr. Daugherty remained a unit holder of HERA up through 2016. And that's an argument we plan to pursue on appeal.

To fully respond to your question, I want to note I read a footnote in the Debtors' opposition that said something like we've had a year to seek leave to file an appeal of that dismissal in Delaware. But we don't yet have a final appealable judgment in Delaware to appeal. That dismissal remains an interlocutory order. As Your Honor probably knows, we were in day three of trial on the claims that did survive the Debtors' motion to dismiss when this proceeding was filed. So we have not had an opportunity to appeal the dismissal of what we're calling the HERA 80 Percent Claim, but Mr. Daugherty intends to exercise those appellate rights in wherever the appropriate venue may be as this proceeds.

THE COURT: All right. Well, you know, courts always want to be pragmatic, as you know, in situations like this, 3018 estimation proceedings. And my pragmatic view of things is, while, again, we may have a multi-day trial one day where you convince me on this $21 million plus claim, that

notwithstanding the Delaware court's dismissal of it for *laches*, at the end of the day you ought to get this, it seems like a pragmatic place to draw the line here today for purposes of an estimation hearing. I'm not sure how you could convince me in two hours that this absolutely is likely enough to prevail that you ought to get to vote the claim.

Another area, as long as I'm talking about pragmatic ways to resolve this issue today, is the post-petition interest. I have a feeling that's only a couple of hundred thousand dollars or so. But nevertheless, it's argued here somewhat extensively that Daugherty ought to get to keep accruing post-judgment interest on the HERA judgment post-petition because, you know, it's not really a judgment against the Debtor, it's a judgment against HERA, and the general 502(b)(2) you can't accrue post-petition interest, unmatured interest, if you're an unsecured creditor, ought not to apply. I'm just telling you right now, that would be a nonstarter here for me today. Again, I have a feeling that's only a couple of hundred thousand dollars, right? Maybe it's more than that. It can't be. Right?

MR. UEBLER: That's --

THE COURT: Okay.

MR. UEBLER: That's correct, Your Honor.

THE COURT: So, --

MR. UEBLER: So I won't, I won't address that any

further.

THE COURT: Okay. So we can take that one off the table.

And then the other kind of pragmatic way I view things today is the attorney fee shifting. Now, you might be able to piece this together for me and show me that, contractually, under the indemnification provision, that there is some component of attorneys' fees that ought to be allowable, but, you know, to just generally kind of give a common law bad faith argument here, that I should depart from the *American* Rule -- you know, if there's no contractual entitlement, if there's no statutory entitlement -- that's a heavy lift. Again, you might prevail one day, but for purposes of a summary voting estimation claim context, I just don't see how you get there.

So, does that help narrow the issues today? I had trouble thinking how I'm ever going to get to the $21 million claim in a summary 3018 context, the breakaway from the *American* Rule on attorneys fee shifting, and then the post-petition interest.

So if you carve those away, I don't know how close we are to the $9,134,000 that the Debtor has proposed, but I guess we're still a few million away.

MR. UEBLER: We're getting closer, but let me respond to the pragmatic way of dealing with the HERA 80 Percent

Claim, which is $21 million. We don't view that as at all a nothing amount for purposes of today. I might not convince you that Mr. Daugherty should be entitled to the entire $21 million, and I'm not -- I'm not going to try, because I do recognize that the claim was dismissed and that creates at least a procedural burden for us.

So, one result may be to award Mr. Daugherty a portion of that claim. But let me move on --

THE COURT: Okay.

MR. UEBLER: -- to address the fee issue. These are -- there are 30 different sources of Mr. Daugherty's rights to fee reimbursement, only one of which is the common law exception to the *American* Rule. And my thought was to just briefly outline what it is that we're asking for, break down Mr. Daugherty's claim, and then ask Mr. Daugherty to testify very briefly about how he calculated that amount and what out-of-pocket payments he's actually made throughout the course of this litigation, to give the Court an opportunity to see which of the different buckets the fees may fall into and how you may be able to resolve some or all of those amounts.

THE COURT: All right.

MR. UEBLER: So, the claim for indemnification and fee shifting, as I said, it has -- it has three components. The first, which we focused on in our reply, is the bad-faith fee shifting.

Now, in Mr. Morris's presentation that I expect him to show today, he'll refer to this as a new argument that wasn't in our Delaware complaint and was not in the proof of claim submitted by Mr. Daugherty. That's just not the case. This was an issue that was presented to the Delaware court in August 2019, before trial. We laid out why Mr. Daugherty should be entitled to fee shifting. And that's an issue that would have been addressed post-trial but for this bankruptcy. And that's based on the series of events that we laid out in detail -- probably too much detail for these purposes -- in our papers about shifting positions in litigation; attempts to put Mr. Daugherty in jail, which thankfully the Texas appellate court put a stop to; preventing Mr. Daugherty from collecting compensation that's rightfully his. All of that has cost Mr. Daugherty millions of dollars over the last ten years, and he hasn't recovered a dime.

So, the three legal doctrines are the bad-faith exception to the *American* Rule.

The second is contractual indemnification under Highland Capital's partnership agreement. This is a claim that was fully briefed on cross-motions for summary judgment in Delaware, and it was argued to the Delaware Vice Chancellor and submitted for a decision. The source of Mr. Daugherty's indemnification claim is Section 4.1(h) of Highland's partnership agreement, and that's Exhibit 39 in the papers we

submitted. I'll just read briefly what that provision is.

It states that a partnership -- that is, Highland Capital -- shall indemnify and hold harmless the general partner -- which is a company called Strand -- and any director, officer, employee, agent, or representative of the general partner -- again, Strand -- against all liabilities, losses, and damages incurred by any of them by reason of any act performed or omitted to be performed in the name of or on behalf of the partnership -- which is Highland -- or in connection with the partnership's business -- which is Highland's business -- including, without limitation, attorney's fees and any amounts expanded in the settlement of any claims or liabilities, losses, or damages, to the fullest extent permitted by Delaware law.

Now, it was undisputed through summary judgment in the Delaware case and going I would say close to three years of litigation that Mr. Daugherty was a covered party under that provision. In other words, he was an officer, agent, representative of Strand who could be entitled to indemnification.

Highland admitted in every version of its answer in the Delaware case that Mr. Daugherty was, in fact, an officer or an agent of Strand through his resignation from Highland in 2011. But in this Court now, we have Highland claiming that Mr. Daugherty ceased being an officer of Strand in 2009.

And, in fact, just a few hours ago I received a few documents from Mr. Morris showing that Mr. Daugherty was not listed as an officer of Strand after 2009. I'm still processing in my own mind why I'm just receiving these documents now, after three years of litigation, why Highland made previous judicial admissions to the contrary, and why we made it through summary judgment without this issue being raised.

But ultimately, it doesn't matter, because Mr. Daugherty will prove, consistent with Highland's prior admissions in the Delaware court, that he is a covered person under this indemnification clause, because, at a minimum, he was an agent and representative of Strand through 2011.

And he'll also prove that all of the Texas litigation and what has happened since the Texas litigation began in 2012 really stems from what Mr. Daugherty did or did not do related to Highland's business. So the nexus requirement under the indemnification agreement is satisfied.

Again, this is an issue that was fully submitted to the Delaware court, but no decision was issued.

The third component of our reimbursement claim is fees on fees and the idea that, to the extent Mr. Daugherty is successful in establishing his contractual indemnification rights, he is also entitled to reimbursement for the cost of proving his entitlement to indemnification.

Now, if you put all of these three buckets together, you're left with $7.8 million. That's not an insignificant amount, and it's -- it's more than the $9 million that Highland has offered. And if any line is going to be drawn today, we submit that that line should be drawn to include this $7.8 million for -- based on the law that we've provided in our papers and based on the facts that we have demonstrated and the exhibits and Mr. Daugherty's declarations and the brief testimony you'll hear today about the litigation that Mr. Daugherty defended and what he's had to deal with for the last ten years.

I'm going to stop there. Do you have any questions at this time about the fee reimbursement portion of the claim, which is $7.8 million?

THE COURT: No questions on that.

MR. UEBLER: Okay. The one aspect of Mr. Daugherty's claim that we did not have an opportunity to talk about yet is what we're calling the 2008 Tax Refund Claim. And that's -- that's an amount of $2.6 million in Mr. Daugherty's proof of claim, and that amount should be allowed in full for voting purposes.

Now, I'm going to let Mr. Daugherty explain the factual background of this claim, but the short version is that Mr. Daugherty received compensation in 2008 from Highland Capital, and he received that compensation as an employee and in the

form of a tax refund. The IRS is still in the process of auditing Highland's tax treatment for 2008, so there's a possibility that in the future the IRS will claw back Mr. Daugherty's 2008 compensation that was approximately $1.4 million. And with that would come interest and penalties that we estimate could total $2.6 million.

So, yes, it's correct that as of today there is no definite liability to the IRS. This is a contingent liability and we don't know what the total amount may be.

Now, if Highland hadn't come out and said in its adversary complaint that it's basically refusing to acknowledge any potential liability for this issue, we might not have a current claim to put before Your Honor today. But the fact that Highland has already come out and said it has no intention of either covering future tax liability or giving Mr. Daugherty substitute employee compensation for 2008 in the event that the IRS were to take that away, we think presents a live claim that Mr. Daugherty has sought to preserve through this proceeding.

He's not seeking a cash payment, ultimately. All he's looking for is some agreement by Highland to assume this liability or to put the money in escrow in the event of a clawback. But for voting purposes, we're asking that the full potential of $2.6 million for this claim be permitted.

And, you know, you asked earlier about why $9 million

isn't enough. It's a matter of degree. Mr. Daugherty is a creditor and he is entitled to a say in the plan, and that's what we're trying to establish today. And we think it's important that Mr. Daugherty have a voice, and that voice carry some weight, to enable Mr. Daugherty to have a seat at the table, have a voice in the plan.

I think the more that this Court would be willing to permit at this summary stage of the proceedings, where there's a presumption in favor of claims, even if they're disputed -- I think that will be my only reference to 3018 law today -- we submit the Court should err on the side of more rather than less.

Mr. Morris and I had discussed doing mutual openings followed by Mr. Daugherty's testimony. I think now would be a good time to turn this over to Mr. Morris before we call Mr. Daugherty, if that works for you.

THE COURT: All right. That works for me. Mr. Morris?

MR. MORRIS: Good afternoon, Your Honor. John Morris; Pachulski Stand Ziehl & Jones, for the Debtor.

I really do appreciate Your Honor's preliminary projections of where we are. I had prepared a rather extensive presentation for the Court that I'm actually going to dispense with because I'd like to focus on the narrow issues that Your Honor has identified.

I want to begin by apologizing to the Court for having to engage in this process. We have tried very hard, I think as Your Honor has perceived, to fully resolve this particular motion. At the outset of the process, the Debtor readily acknowledged the validity of Mr. Daugherty's judgment in the amount of $2.6 million, plus interest, through $3.7 million. That's not an amount in dispute today. That won't be in dispute as a matter of his claim. We have admitted it, we acknowledge it, and it will be allowed in that amount.

We went one step further in the hope that it would resolve this motion by agreeing to allow the maximum amount that Mr. Daugherty's expert was prepared to testify to on the petition date for these promissory estoppel and other related claims. The expert at that time testified to a range of somewhere of four to about $4-1/2, $5-1/2 million, and that's how we arrived at the $9.1 million.

Let me make it clear, Your Honor, that if the parties are unable to resolve this, the Debtor will contest that. But for this purpose, we felt by giving it one hundred percent validity, notwithstanding the fact that we will contest it on the merits if needed, that that was a fair resolution, that that was a very simple way to get this done. Unfortunately, we were not successful.

We're here today not because we like to litigate but because we're doing our best for these estates and its

stakeholders, including all unsecured creditors. Mr. Daugherty is entitled to a seat at the table. We have given him a seat at the table. He now sits with the third largest general unsecured claim that is going to be allowed, and that follows from the settlements with the Crusader and Redeemer Funds and with Acis. At $3.7 million, he's already got the third largest allowed claim. And we're prepared to give him a vote of over $9 million for this purpose. But what we don't do and we don't think our fiduciary duty will allow us to do is give him credit for claims that, in our view, clearly have no merit.

So let me just go through them very quickly. The first is a claim for over $20 million arising from the assertion that somehow he is now entitled to one hundred percent of the HERA assets. Mr. Daugherty -- I don't know Mr. Daugherty. I have no animosity against Mr. Daugherty. One of the things that I and my colleagues and the board have dealt with throughout this case is that there's so much baggage here, Your Honor. And it's -- this has been our burden, this has been our challenge, is to cut through this and try to get to the merits. What's really fair and what's really reasonable? And it's what we try to do in our settlement negotiations and it's the only reason we're here today, because we thought we made a generous offer.

And Mr. Daugherty is well within his rights to say, Not

good enough. But we think, we think we've offered enough. When we think of his claim to a hundred percent of the HERA assets, he will testify, I assume, that when he left he had 19.1 percent. He never thought he had more than 19.1 percent. Nobody ever promised him any more than 19.1 percent. His expert in Delaware was prepared to testify on damages based on 19.1 percent. He actually pursued these claims, Your Honor, not just in Delaware, he actually started in Texas. He knew about this in 2013, right when it happened. It was part of his Texas action, and it was rejected. And you heard -- and we heard Mr. Uebler allude to it, right? So then he goes to -- he goes to Delaware and he tries to bring them again, maybe three years later, in 2017. These are undisputed facts, Your Honor. And they get dismissed.

Now, the interesting thing is, if you look at our Exhibit T, it's the Delaware -- I think it's V, actually. It's the Delaware court's order dismissing the claims. It didn't give a reason. But if you go back to Highland's brief, you'll see there's a multitude of reasons.

And when they use the phrase *laches*, Your Honor, it doesn't mean that Mr. Daugherty was found to have sat on his hands. The Delaware Chancery Court is a court of equity, and so they use equitable principles. What really happened is that the Delaware court found that the claim was barred by the statute of limitations because the cause of action arose in

2013, Mr. Daugherty knew that, and he didn't bring his action until 2017, more than, you know, more than the three-year statute of limitations.

But you'll see in the Debtors' brief, which we've cited, that Highland actually asserted a multitude of reasons why this claim should be barred. And we don't know exactly why the Chancery Court did it, but he's going to have to deal not just with *laches* -- which is the word, the phrase that's used for statute of limitations -- he's going to have to deal with promissory estoppel. He's going to have to -- not promissory estoppel; just estoppel generally. Res judicata. It's all in there. There is no chance he's going to succeed on this claim on appeal. And it's $21 million, and he shouldn't be given the right to vote any portion of it. That's number one.

Number two, with respect to the tax claim, what's really interesting here, Your Honor, is that there is no claim that Highland has breached any duty today. There's no claim that he's breached a contract -- that Highland has breached a contract. There's no claim that Highland has committed any tort.

What happened was, back in 2008, Mr. Daugherty, according to him, was promised $1.475 million as compensation. There was an agreement. That compensation was delivered to him not in cash but in the form of an allocation of losses from the Highland partnership. Mr. Daugherty was a limited partner.

He got over $4 million in losses. Those losses were recorded on a K-1 that's going to be admitted into evidence. And Mr. Daugherty took those losses and shielded his income and his gains in other places in his life, I don't know. But the benefit of that was $1.475 million.

Mr. Daugherty never says that Highland breached its agreement. He never says that Highland failed to perform. He never says that Highland did anything wrong. All that's happened here, Your Honor, is that the IRS is conducting an audit of Highland's 2008 taxes, including these losses. Okay? So, as we sit here today, Highland owes zero. There is no basis to give him any claim for voting purposes. There's just, there's no reason. It may be -- later that he should be getting. And what I would find to be very reasonable is that we are here on the merits and he asked the Court to establish a reserve. I think it's almost what Mr. Uebler asked for, that you establish some type of reserve for a contingent claim. You know, that would make sense. But that's not why we're here today. We're here to say whether or not he's allowed to vote this claim, a claim where Highland today admittedly owes nothing.

So, you know, I think that that dispenses with the tax issue.

The last one is this claim for attorneys' fees. I will tell you, Your Honor, I didn't have a good weekend myself this

past weekend because I had to flip through 2,600 pages of Mr. Daugherty's appendix. I don't have the experience here on (garbled), but I waded all through that stuff. And Mr. Uebler and I have a very cordial relationship, which I'm grateful for, and we were talking on Friday, and he said, Why do you guys say that he resigned from Strand in 2009? And I said, I don't know where I picked it up, but that's what I put in here. And he said, But that's not right. And I asked him, I said, If you have a letter of resignation, you have something, give it to me. And he didn't give me anything.

But last night -- and this is why it came up at the last minute. This is why it came up at the last minute. Last night, they filed a declaration from someone named Mr. Covlin or Colvin, who I hadn't heard of but who apparently was the Highland general counsel back when Mr. Daugherty was at Highland. And you'll see in Paragraph 5 of his declaration he says, I don't have a memory of Mr. Daugherty resigning from the Strand board before he left in 2011. And I said to myself, I don't -- I don't understand why people can't -- there's got to be a letter of resignation, there's got to be something to prove the fact.

And so I called Highland this morning and I said, When did he resign? Do we have anything? I said, I want anything you can find. And we're going to put into evidence, Your Honor, two different exhibits, one of which, ironically, is a

Secretary's Certificate that was signed by Mr. Colvin. And it was signed in early 2009, where he certifies to the Strand board resolutions, which set forth the officers of the company, and Mr. Daugherty is not on it.

The second document, Your Honor, is even more significant. It is a periodic statement of the officers of Strand that are listed by individual with their title and each person signs it. And what the evidence is going to show is that Mr. Daugherty signed his statement as either Secretary or Assistant Secretary every single time from 2006 until about March of 2009. And then in the mid-2009 document, consistent with Mr. Colvin's certificate, Secretary's Certificate, he's no longer there, but Mr. Colvin was still signing all of his papers without Mr. Daugherty.

So I don't really know the record of Delaware. I'm doing the best I can, Your Honor. But I don't think that there's going to be any dispute at the end of all of this that Mr. Daugherty ceased to be a director or an officer of Strand sometime between March and May 2009.

Why is that significant? Because that is what he hangs his hat on in order to establish his claim for indemnification. We don't think there is any claim because he was no longer an officer of Strand after early 2009.

Even if he was, Your Honor, everything that he's seeking indemnification for now arose after he left in 2011. He's

trying to use the indemnification provision in order to recover his attorneys' fees, attorneys' fees that were recovered [sic] after 2011, that were incurred solely for his own personal benefit.

It's not as if he brought a claim derivatively on behalf of Highland. Instead, he pursued litigation where he would recover damages, where he was the plaintiff. In fact, Highland was a defendant, is a defendant in a lot of this litigation. I don't understand how anyone can fairly read an indemnification agreement that requires the indemnitee to act on behalf of the indemnitor, and that somehow suing an indemnitor is consistent with the concept of indemnification. It just, it doesn't make sense. He wasn't there. The fees accrued after the fact. There's just, there's no basis for it.

And fees on fees, that other concept that they're building upon, is fees on top of fees to pursue indemnity. So if the indemnity doesn't work, fees on fees don't work either, Your Honor.

And I'll just very briefly, the fee shifting thing, I heard Your Honor's point. But, again, I bear no ill will toward Mr. Daugherty, but a fair reading of the record says that nobody comes to this, none of those parties come here with unclean hands. Mr. Daugherty was found to have breached his fiduciary duty. The only judgments that have been

rendered by any court so far have him paying Highland 2.8 and Highland paying him 2.6. He complains that so many of Highland's causes of actions were dismissed. We could do a scorecard if you think it's necessary showing that Daugherty's claims and causes of action were dismissed.

I heard Mr. Uebler talk about, you know, the appellate court reversing the criminal issue. But you know what, Your Honor? The trial court actually agreed with Highland there.

So, again, fee shifting is an extreme remedy, the absolute extreme remedy in the United States. And, again, not to cast aspersions against Mr. Daugherty, but nobody comes here with unclean hands. There's no basis to do it in this particular case.

So we think $9.1 million was very fair, Your Honor. We think the undisputed facts are going to show that the balance of these claims are without merit at the merit hearing, but certainly for this purpose, Your Honor. He doesn't -- he doesn't come close to the -- even the low bar that's needed for voting purposes.

Thank you, Your Honor.

THE COURT: All right. Thank you. Mr. Uebler, you can call your witness.

MR. UEBLER: Thank you, Your Honor. Mr. Daugherty, are you available?

MR. DAUGHERTY: Yes. I am here.

THE COURT: All right. Mr. Daugherty, I'm going to swear you in.

PATRICK DAUGHERTY, CREDITOR PATRICK DAUGHERTY'S WITNESS, SWORN

THE COURT: Thank you. You may proceed.

(Note: Witness muffled throughout testimony.)

DIRECT EXAMINATION

BY MR. UEBLER:

Q Good afternoon, Mr. Daugherty.

A Good afternoon.

Q I'd like to begin by asking you a few questions about what we call the fee reimbursement portion of your claim. Would you explain to the Court what out-of-pocket payments are included as components of that claim?

A As far as category or number?

Q What's -- however you'd like to address it. Maybe categories and then number.

A Sure. There's (inaudible) I'm pursuing for the costs incurred pursuant to executing my release under Strand. And just to be clear, Strand reimburses not just for officers and executives, but also for representatives in any case, which is consistent with what Highland said in Delaware on multiple occasions.

Then there are fees on fees, which is, under Delaware law as I understand it, I'm entitled to the fees that I had to incur in order to gain -- in order to get Highland to make

good on its promise in that original partnership agreement with Strand and Highland.

And then, let's see, indemnification, fees on fees. And then there's my claim for the fee-shifting. And I certainly understand the concept of the *American* Rule and the judge's point, and (inaudible), but what you have to remember here is there was a crime fraud finding in Delaware which caused Highland to lose its attorney-client privilege where we discovered that its in-house counsel -- Scott Ellington, Isaac Leventon, Thomas Surgent -- working with outside counsel, basically provided prima facie evidence of a fraud. So this moves far beyond just, you know, two parties going at it. This has been, again, that Highland sued based on, frankly, lying to that very same judge in Dallas County Court that Mr. Morris referred to. And not only the judge, the jury, where we have (inaudible) law from the various outside firms summarizing what these people -- you know, again, I generally refer to them as the cabal. But this just goes far beyond two parties having a good-faith battle with one another. This turns into, frankly, fraud. And I've had -- and by the way, Judge (inaudible) in Delaware Chancery Court, once he made this ruling, said that he sees evidence of fraud going all the way back to December of 2013, when Highland allegedly set up an escrow account on my behalf, and it never happened. And not only did it not happen, but again, they told Judge Hoffman

down in Texas and they told the jury that it did happen. And (inaudible) and everyone else on multiple occasions that (inaudible), only to find out in December of 2016, after all appeals -- the appeal process was exhausted, that most of that money was never put into escrow. Again, they never (inaudible) Dondero (inaudible). And (inaudible), his counsel. But that what any of those assets were there would have been shifting -- and when I say they, I mean Scott Ellington and Isaac Leventon -- while they (inaudible) my house in Dallas, while they were claiming that I had (inaudible) and were seeking turnover in Dallas, while they were terrorizing my family and sending the cops on the house, they had all those assets shifted to themselves, kept quiet about it, and then proceeded to order me to make a $3.1 million (inaudible) for their attorneys' fees.

I don't think a fraud can get more absolute than that. And so that is, you know, that's my quick summary on the nature of those fees. And, again, I know this (inaudible), but this is just a little bit different than your, you know, run-of-the-mill situation.

Q Mr. Daugherty, you mentioned indemnification in your answer. Did Highland or its affiliates assert claims against you in Texas state court based on your conduct as a Highland employee?

A They did. I mean, I was accused of having (inaudible), of

committing securities fraud violations, of not executing my duties to investors, when in fact I was doing just the opposite and (inaudible) protecting them from being defrauded. And some of those investors are on the Creditors' Committee today, as the Crusader and Redeemer Committee, is Eric Felton, (inaudible) Montgomery. Those were the people I was trying to protect from -- and by the way, at the end of the day, I felt like I protected Highland, too, to keep them from doing something stupid that could end us in this -- all of us in the situation where we are today.

So I was executing my duties as a portfolio manager. I was -- and by the way, that carried all the way through to January or February of 2012, after I left, because what Mr. Morris didn't tell you is in Mr. Colvin's affidavit I was enlisted by Highland to come to an exit interview after I had resigned, where they wanted to hear two categories of topics. One, the performance of the individual (inaudible) in the Crusader Fund, because Highland had lied to them (inaudible). They wanted to hear from me what I thought its true value was. One of those investments was Cornerstone, which we're all familiar with.

And then the other category of topics that they wanted to discuss with me was (inaudible) leaving Highland. And that included the timing, (inaudible) efforts. Money was being thrown at me, or offered to me, I should say, directly from

Dondero, from Cornerstone, to pay me a (inaudible) in order to seek releases for Highland.

So, you add all these things up together, and I was performing my duties as their portfolio manager and as a fiduciary that basically superseded any duty that I had to Highland itself when it came to those clients, which was my fund, Crusader, that I managed and that ultimately the beneficiaries, the investors, led by, as I said, one of their UCC members, Eric Felton, (inaudible) at the time, who now leads the Crusader entity.

Q Mr. Daugherty, with that background about the different bases for your theory (inaudible) claim, could you quantify it for us, how you reached $7.8 million?

A Well, the total fund, for the total 7.8, the answer is yes, I could break it down into individual components if it would be helpful to the judge because I believe the -- I believe the indemnification part of that, which the judge seemed to have issues with, was around 1.5, if I remember correctly. The rest of it was fees on fees, and defending myself against false accusations from the Debtor, and executing (inaudible) to defend those investors from -- (inaudible) that they were getting ripped off by Highland, by Dondero.

Q Are there any other components to your -- the amount that's represented in your fee claim?

A It's fees on fees. I think we touched on that. So that's related to the (inaudible).

Q You're -- you're saying that the claim included a reference to IRA penalties and --

A Oh, yeah. So, you know, when you have to proceed like this, and I know I've been presented as this rich greedy person, but there's a reason why Highland was wanting to get garnishment and wanting to seize my assets with the constable, because I got (inaudible) fighting this. And Judge Jernigan, I was in your case on another matter and you asked why there's not counsel, it's because I didn't have the money. And so one of the things I had to do was cash in my IRA, my wife's IRA.

Q What's --

A I had to take a mortgage on my house. I had -- with interest on that. And with penalties on the IRA. I did not (inaudible) -- I did not -- I hate this. I hate talking about this. Is that enough?

Q I want to talk briefly about this tax refund claim for 2008 and the basis for it. What -- what is this tax refund that you received in 2008?

A (inaudible). In 2008, and I put it in a page in my declaration, Highland was in trouble (inaudible) of the crisis, you know, the various -- and we had talked about our credit facility with our banks, led by Bank of America (inaudible), but they were unsecured. So what that's -- the

way it's drafted, and they wanted to get secured. In the process, I was having negotiations, which (inaudible) into 2009. They were concerned that money was being siphoned out of Highland while we were in breach of our credit facility. Initially -- initially, they thought all the partners were taking money out, and after getting their -- after getting their forensic accountants in there from FTI, they discovered that the only people taking money out was Dondero and Okada, under a guise of quote/unquote repaying a loan to themselves.

So, in the heat of all that, there were two things that came from that. One, they shut down all the money going out of Highland and they closed (inaudible). We had to reduce our headcount by 20 percent. We also had to reduce our costs, you know, our outgoing costs, as you would expect when you're in this type of situation.

Well, the problem was there wasn't enough money to pay the cash element of bonuses that were coming due in February of 2009 for the work that we (inaudible), you know, operate for the year 2008. The way it worked at Highland, and still does apparently, the employees work the full year, and then in February of the following year they get a compensation benefits letter that says, Here's what your bonus is. Here's what your tax bonus is going to be. It's going to be paid out in installments, call it February or August, February and August of the subsequent years. And then there would be some

type of deferred compensation and then some type of listing of the value of the (inaudible). So we got lunch generally every day, we had healthcare costs paid for, we had life insurance. And so we (inaudible) out all these things (inaudible).

And I think what you're asking in your question is, Where did the tax refund come in this? Well, historically, we would -- we would have got a cash bonus in that particular, you know, document that I mentioned. But (inaudible) pay cash bonuses beyond a *de minimis* amount. Dondero and, I believe, Mark Patrick in the tax groups and Rick Swadley, and there's another one, Jennifer Blumer, I think, and Michael Collins, they called all of us into the conference room and they said, We're going to pay your cash bonuses, but we're going to have to do it by making this election with the IRS.

And, frankly, none of us really understood what it was. It was very convoluted. But when we got our February 2009 award letter, and I think that's an exhibit in here somewhere, it says very clearly -- in my case, anyway -- (inaudible) tax refund, $1.475 million. And then it says, You're going to get this -- and I'm paraphrasing -- but, You're going to get this amount, but to the extent that you don't get this amount, we will provide you, you know, Highland will provide you substitute compensation.

So it was very important that -- to take the place of what had (inaudible) cash bonus, but it was compensation through

and through. And when you hear Mr. -- Mr. Morris, I'm sorry, go on about me getting $4 million in the loss, well, I did get (inaudible) that had a $4 million loss. As the IRS interpreted it, they only netted, I guess, accepted it, the -- they had the number equivalent at roughly 1.1.

But the point in all this is that was the method that Dondero and the tax team had concocted to generate the funds for Highland, its separate obligation, this is a compensation of benefits letter that I got.

And we understood the situation that Highland was in and we were willing to live with that. Where I think things went bad -- and by the way, this has been dragged out forever, Your Honor. I've talked to Mr. Stewart about it. I informed the IRS, tried to settle it. And I know (inaudible) probably never (inaudible), I'm more than willing to work with the Debtor to get it settled. But what I want, and I don't know how this works in bankruptcy, Your Honor, I -- I've got a claim, so I filed the claim, because if you don't file the claim, you lose it. Right? And then what happens is I'm (inaudible) the Debtor. The Debtor (inaudible) as an adversary, said, We're going to equitably subordinate this because this is equity in nature. And at one time, the method of payment that was concocted by the Debtor (inaudible) was, the compensation agreement is separate and apart from that, and that stands. And neither I nor any of the other guys that

got this are looking for a windfall. And I don't know how you vote it. I mean, if the Debtor had said, We're just going to assume this like a lease contract, I wouldn't be in here asking you to put a number on it. But what I got was an adversary saying, We're not going to pay this. We're going to go equitably subordinate this, even if you're trying to, you know, get it reimbursed through the partnership. So that forced me to bring it to you, Your Honor, and try to put a number on it.

Q Mr. Daugherty, during your time with Highland Capital, did you receive cash distributions from Highland in your capacity as a limited partner of Highland?

A That's a very important point. These K-1's that -- there were two kinds of partners at Highland. There were the real partners, Jim Dondero and Mark Okada, who referred to themselves as founding partners, and then there were the subclass of partners, really, we kind of -- we called ourselves profit centers partners because we had a place in the partnership but we weren't allowed to get any distributions.

So whenever you see a K-1, we didn't get any of that money. All right? That money stayed in the partnership or went to Mark and Jim. What we had was what's called a (inaudible) and a buy-sell agreement that were attached to the partnership which -- that basically we didn't get any

(inaudible) distributions or income from this, but what we got was at the end of that time we could go and terminate it and say, Pay me out now, and at that point it would be valued. And so in my case, when I left, the value that they offered me was $199,000. For all, for all those years of service. And so to answer your question, no, I didn't get any money from it.

Q Thank you. I want to ask you just a few questions about the HERA 80 or 81 Percent Claim that they were referring to. At a high level, what is HERA?

A Well, this goes back to the same situation I was talking about before as it related to this 2008 tax refund. As I mentioned, we were losing employees. People were leaving. I mean, we started the year in 2008 with 22 partners and we were down to I think 11 or 12 at the start of 2009. The banks were just, the banks were furious and they were talking about liquidating us and getting a trustee put in place because they were furious to find out that Dondero and Okada had taken out money. It was around $20 or $30 million.

Once we got through that hurdle, I said, Listen -- because I became, by the way, Your Honor, I became Highland's kind of advisor, restructuring person. I did that for Highland as (inaudible) usually us on the same side of the table as the banks on, you know, I was head of distressed and private equity at Highland, so I -- distressed debt and go and

negotiate at the Debtors' beck and call.

In this position, I moved over to the other side of the table and I was negotiating on behalf of Highland with a lot of my colleagues who were in the distressed community, which I generally refer to as knuckle raps. But they knew me, and I knew them, and we sort of -- and we had trust between each other, especially given what had just happened. And they agreed to set aside HERA, which is an acronym for Highland Employee Retention Assets, and it was a fund where they set aside, I don't know, around $20 to $25 million of assets that would then be used to incent employees to stay. And it had a three-year cliff vesting. And what happened is they didn't have any money left. Well, the employees that remained got reallocated their shares. So, contrary again to what Mr. Morris said, there was an agreement that the ownership interest would go up as we stayed through and helped right-size the ship.

Q Mr. Daugherty, why is it that you contend now that you're the one hundred percent owner of HERA?

A Well, this goes back to bad faith. And I sympathize with the judge, I did give you a ton of information, but this has just been nine years of terrorizing, you know, that I've had to contend with. And if you look back to December of 2012, January of 2013, a gentleman named (inaudible) had sent Dondero an email saying, Here's how you can pay everybody

except for one. And (inaudible) board member on HERA. And on HERA's board, there's affiliates of this guy. Ellington and John (inaudible). It's basically Jim's buddies, Jim Dondero's buddies, not (inaudible). So he sent me this email saying, Here's how you can pay everybody but one. So we get into January 2013, and Highland purports to make an offer to buy out everybody at HERA except me. Well, guess what. In the middle of January, all of the board resigns, without having anyone change the shareholder unit to the LLC and without taking board action that would allow Highland Capital to be an assignee of these units.

There is a reason for this. We go back to why HERA was created. The banks were furious about Mark and Jim taking money and the banks wanted to take a secured interest in all things Highland. So what we agreed is we would put it in a (inaudible), in an entity referred to as HERA, and Mark and Jim and Highland would not be able to participate in it. So they are not recipients of the preferred units, and the only way it can ever become (inaudible) preferred units is for there to be action taken, specific action take to amend the documents, or by the board, if they remain. And in my Texas trial, this issue did come up, and Thomas Surgent said that no such action was taken. Thomas Surgent is Highland's chief compliance officer. (inaudible). I'm getting a little --

Q I'm just going to ask two questions briefly before we turn

this over to Mr. Morris. How did you calculate the value of $21 million for this HERA 80 Percent Claim?

A I took what -- Highland took my own expert report and made it attorneys' eyes only in Delaware. So my lawyers could never sit down with me and explain it to me. So all I could go off of was what I saw at the trial. And it was only the last two or three days where Mr. Morris, he did file the entire expert opinion of my expert where I could see all the components.

So, at the time, I took what my expert was saying was the value of my expert assets, I think as of December 2016. And since I knew that that was based on 19.1 percent, I divided that number by 19.1 percent, came up with a total, and then re-multiplied by 80 -- 80.1 percent, to find out what that delta was.

Q Given that these claims were dismissed on procedural grounds in Delaware, and having heard Judge Jernigan's comments earlier about this claim and its value for voting purpose, what do you as the Claimant believe a fair allocation of this claim is for voting purposes?

MR. MORRIS: Objection to the form of the question.

THE WITNESS: Listen. I've --

THE COURT: Overruled.

THE WITNESS: -- been around Judge Jernigan --

THE COURT: Overruled. You can answer.

THE WITNESS: I've been around Judge Jernigan long enough to know that she means what she says and she says what she means. And I understand her reservations on this, too. But I will say there are some mitigating factors here that Highland, in Texas and all the way through the Texas Court of Appeals, they were saying (inaudible), this is a double counting, this is a double counting. That (inaudible) up for reconsideration in a court -- Texas Court of Appeals (inaudible), and the Court refused to see it that way. Then when we went to Delaware, they(inaudible), they said, Oh, no, we have cures. There's *laches*, statute of limitation is operating against them.

And so my reaction to that was, How am I supposed to be in an action based on my share ownership when you're saying I don't even own my share ownership and it's not determined until December 2016?

It is true that Judge (inaudible) said you should have basically filed a placeholder. As I've learned a little bit about Delaware law, I don't think that is consistent with Delaware law, but it is what it is. And if Judge Jernigan (inaudible) position. So if she's right to say that I could bring these claims over (inaudible) you know, contains, you know, a different item. And so you're asking me whether (inaudible) advice to the judge? I would say that I'm more -- I'm more than agreeable to whatever she decides. I just want

to know -- her to know why I'm here and what this is about, that this is not frivolous, but if it doesn't end with plan voting as she sees it, then I can live with that.

Q Thank you, Mr. Daugherty.

THE COURT: All right. Thank you. Pass the witness. Mr. Morris?

MR. MORRIS: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. MORRIS:

Q Good afternoon, Mr. Daugherty.

A Hello.

Q My name is John Morris with Pachulski Stang and I'm here on behalf of the Debtor. We've never spoken before, have we?

A Yeah, we have.

Q Yeah? I don't --

A Yes.

Q I don't recall. But it's --

A You were in in-person court in Judge Jernigan's court in January and February and I think we spoke.

Q Okay. Well, forgive me for not recalling that particular detail. I just wanted -- just a few questions, sir. On the tax issue, according to your testimony you were promised $1.475 million approximately in connection with your 2008 compensation; do I have that right?

A That's correct.

Q And I understand your testimony that it was Highland's idea, but you agreed to the method of compensation in the form of an allocation of Highland's partnership losses, right?
A I would not say that. There was no -- it was dictation, not an offer and acceptance.
Q Well, you did accept -- you did accept the benefit of the allocation of the Highland losses on your 2008 tax returns, right?
A I -- I don't know if accept is the right answer. I sent my K-1 in with my tax return, and as I clearly admit, there's approximately $4 million of losses that are allocated to me via the K-1 that they could use in the computation of my taxes.
Q Okay. So it's fair to say, then, that the manner in which, or I think the word that was used in your papers, the method by which you were compensated was through the allocation of a portion of Highland's losses; is that right?
A That is wrong. I was compensated that said you're going to get 1.475. If you don't get 1.475, we will provide substitute compensation. What you're confusing is the manner in which Highland decided to try and fund the obligation, and I just don't think it's right to conflate the two.
Q Well, Highland did fund the obligation through the allocation of losses to you; isn't that right?
A It is not. As I said, I got the $4 million pass-through

that the IRS determined was approximately $1.1 million, as I recall.

Again, I'm not here to try to capture that missing 3.75. All I want is Highland to basically stay in the shoes if -- or stand by the promise that they made, that they made, sorry, that they made to me, which is if the IRS changes their mind or if Highland (inaudible) and wanted to start to use this (inaudible) argument, that I get sufficient compensation to make me whole.

I mean, at this point, if that -- if we aren't successful, right, on this tax refund issue, then I'm going to get -- not just me. There's about seven or eight other employees who have all also filed claims in this case. We're going to get hammered with penalties and interest that far exceed that amount, and that's not fair.

Q Okay. As of today, Highland doesn't owe you -- that audit is not complete; is that right?

A Well, it's -- the audit took place for two years, and you're probably familiar more than me, I got a letter from Byron Collins in December of 2019, after the Debtor filed for bankruptcy, saying, We've exhausted effectively our negotiations with the IRS. We've now turned this over to some appeals unit in the IRS, and they determined that you don't get -- I'm paraphrasing -- that you don't get to keep this amount.

Now, that basically put me on notice, right, that this is coming to somewhat of a conclusion. (inaudible), I listed it as a claim, I listed it as unliquidated, because I really don't know how to treat it. I guess, I mean, hopefully, the judge makes a decision, and the same kind of category, I don't know how you classify this thing. But when you guys filed an adversary against me and said, You know what, by the way, (inaudible) to me about any of my clients. So when you present to the Court that you engage me and (inaudible) with this guy, you guys didn't talk to me once from the time you filed until October about my claims. You did it just recently, after you filed an adversary. I would have been happy to work with you on this.

MR. MORRIS: Your Honor? Your Honor, I apologize for interrupting. Can I have the question read back? Because I really move to strike. I'll be here all day if we get these answers that really have nothing to do with my question.

THE COURT: Okay.

MR. MORRIS: It's not proper.

THE COURT: Well, I'm going to sustain and strike the narrative answer. I'm going to ask you to just repeat your question at this point.

MR. MORRIS: Okay.

BY MR. MORRIS:

Q The audit is not completed; isn't that correct?

A I don't know. I've been told by you that it's not.
Q Okay. And nobody has told you and you have no information to contradict my assertion that the audit is incomplete today?
A That's correct.
Q And as you sit here today, you don't know how much, if anything, you might owe on account of the tax issue. Is that right?
A That is right.
Q Okay. You first learned about the audit in 2010; isn't that correct?
A I don't know when I first learned about the audit.
Q You learned about the audit before you left Highland; isn't that correct?
A I know that when we filed this, you know, when we filed the returns, we had to file a cover letter that basically notified the IRS, hey, and I'm paraphrasing, we made these elections, you may not agree with these elections, but we're drawing your attention to it right now to put you on notice that we're making these elections. So that's what I know.
Q When is your first recollection of when you learned about the audit?
A I don't recall.
Q Okay. Let's talk about the HERA assets for a moment. When you left in 2011, you owned approximately 19.1 percent of the HERA preferred units; is that right?

A That is right.
Q Okay. And you learned in 2013 of the events that you described earlier with respect to the amendment of the HERA partnership agreement -- limited liability -- limited liability company agreement, the assignment agreement, the expense allocation? All of that occurred in 2013, and you knew it at that time, right?
A Well, if I could clarify that. I believe I was informed that the amendment -- you had a lot of questions in there, so I'll try and break it down. The amendment -- you're talking about 1241, right? I believe I was informed, informed of that either late February or early March 2014.
On the other stuff, we had -- we had sought discovery, and, you know, people have experiences that you don't always get discovery on an expedited basis all the time. We started to take discovery in dribs and drabs in -- early in July, and then a lot more in October and then a lot more in December of 2013. So the (inaudible) that you asked me a question about, we got a lot of it in that time period, and then some of it rolled into 2014.
Q Okay. So, you knew about Highland's purchase of the other holders of the HERA preferred units in 2013, right?
A Yeah, I knew about the purported purchase probably in February 2013.
Q And the purchases were by people who hold -- who held

vested interests in their preferred units in HERA; isn't that right?

A You said it was by them. I think it was from them. But I think (inaudible).

Q If I did, I misspoke, but thank you for the correction. But you'll agree, right, that -- that you knew in 2013 that Highland purchased from the vested holders of the preferred units their interests in -- in the HERA --

A You know, I knew that ultimately that happened. I don't remember if I knew definitively it happened until probably October of 2013.

Q Okay. And you don't bring these claims relating to all of this -- all of these things that happened in 2013 until the summer of 2017 in Delaware; is that right?

A That -- that's generally about right.

Q Okay. And that's more than three years after you learned of them. Is that fair?

A I brought my claims after the Texas Court of Appeals said that I had that shares that your clients said I didn't.

Q Okay.

MR. MORRIS: I'd move to strike.

BY MR. MORRIS:

Q And I ask you to just listen carefully to --

THE COURT: Sustained.

BY MR. MORRIS:

Q -- my question. Okay. Listen carefully to my question. You brought the claims relating to the HERA events of 2013 for the very first time in Delaware in July 2017, right?

A Yes.

Q And it's more than three years after you learned of them; is that fair?

A I'm sorry. More than three years--?

Q More than three years after you learned of those events. You just said that you learned about them in 2013.

A I think that's right, yeah.

Q Okay. And you brought four different claims? I think claim -- Counts 2, 3, 4, and 5 in the original Delaware action were all based on the events of early 2013; is that right?

A I don't know. I don't -- I don't -- frankly, I don't recall my claims (inaudible) that you described.

Q Okay.

MR. MORRIS: Can we please call up Exhibit A to Mr. Daugherty's proof of claim, which I believe has been marked as Exhibit 40?

THE COURT: Okay. Are you going to share the screen or do you want the Court to pull it up?

MR. MORRIS: Yes.

THE COURT: Okay.

MR. MORRIS: I think we'll be able to share the screen. Thank you. And if we could just scroll to the end.

And I apologize, I don't have the page number, but it should be --

THE WITNESS: Could you go back up to the top, just so I know what I'm dealing with here?

BY MR. MORRIS:

Q Yeah. It's Paragraph 82.

A No, I'm looking at the date this was filed. Can you do it to the top? All right. So this is --

Q This is your amended pleading.

A Oh, this -- okay. You mentioned 2017, so I got a little bit thrown off. Okay.

Q So this is the -- this is the document that was attached to your proof of claim. That's why I'm using it. Okay?

A Okay. We've amended our proof of claim. You're talking about the first one?

Q This is the -- this is the one that was attached to your proof of claim, right?

A Well, as I said, we've amended the proof of claim. So are we talking about the one that's amended or the first one?

Q All right. Just take a look,

MR. MORRIS: If you can scroll down to Paragraph -- keep -- no, keep going. Keep going. La Asia, can we scroll down, please? Okay. So go to Paragraph 84 and 85. Okay.

BY MR. MORRIS:

Q Can you read Paragraph 85 into the record, please?

A (inaudible) unit holder of Highland Employee Retention Assets. The purported purchases of units by Highland Capital on January 30th, 2013 using the funds of Highland Employee Retention Assets were -- were invalid transfers.

Q Okay. And that's exactly what you're asking the Court here to find; isn't that right? That you're the sole remaining holder and that the purported purchases by Highland in 2013 were invalid transfers, right?

A Correct.

Q Okay.

A Well, we're not asking her to find that, but we're asking her to find for voting purposes.

Q Okay.

MR. MORRIS: Can you go to Paragraph 89, please?

BY MR. MORRIS:

Q In 89, the relief that you requested is the return to HERA of the funds transferred it and distributed to you as the sole remaining shareholder, right?

A That's correct.

Q And that's specifically one of the claims that the Court dismissed; isn't that right?

A I thought it dismissed the claims for me making ownership of the, you know, the (inaudible) because of the *laches* issue that you described.

Q Sir, sir, this claim was dismissed by the Chancery Court,

right?
A It was dismissed by Judge (inaudible) who's the Chancery Court on *laches* grounds.
Q Okay. How do you know it was on *laches* grounds?
A Because he said so.
Q Okay. Can we just look quickly at Cause of Action No. 3? This was a claim arising out of the exact same conduct against HERA Management and Mr. Dondero; isn't that right?
A I'm not sure I understand your question.
Q Count III was against HERA Management and Mr. Dondero arising out of the same facts, only this claim was for breach of fiduciary duty, right?
A I guess it was breach of fiduciary duty. I don't see -- I guess Mr. Dondero down there in No. 2, but I can't read the whole paragraph.
MR. MORRIS: Can you scroll down a little bit, please?
BY MR. MORRIS:
Q Okay. Right there, Paragraph 93?
A Correct.
Q The adoption of the third amended and restated agreement you allege to be self-dealing and constituting a breach of fiduciary duty, right?
A Correct.
Q And in Paragraph 94, if we can scroll down, you allege

that the execution of the allocation, the expense allocation whereby your interest was reduced to zero was also self-dealing and a breach of duty, right?

A Can you go back there? I can't read it.

Q But you recall making that claim generally?

A (inaudible) You know, give -- ask me the question again about generally what I recall.

Q Do you recall generally making an allegation in the Delaware Chancery Court that there is a breach of fiduciary duty by executing the expense allocation agreement, right?

A Yeah. On behalf of Highland ERA Management.

Q Okay.

MR. MORRIS: Can we go to Paragraph 95, please?

BY MR. MORRIS:

Q You also challenge the assignment agreement, is that right, as an act of self-dealing and breach of fiduciary duty?

A Yeah. I obviously can't read the redacted parts.

Q But this claim was also dismissed, right?

A As I said, these claims were reduced on a *laches* basis, but obviously I plan to appeal. I just (inaudible).

Q Right. And *laches* you understood meant that it was time-barred, right? It was brought beyond the statute of limitations?

A Yeah, as I understood it, yes.

Q Okay.

MR. MORRIS: Can we go to the next cause of action? This will be the last one, Your Honor.

BY MR. MORRIS:

Q This is against the Debtor, Highland Capital. Aiding and abetting breach of fiduciary duty. If you look at Paragraphs 101 and 102 and 103, it's charging Highland with liability for the same conduct, for the execution of the third amended and restated agreement, the receipt of the HERA assets, right, as --

A Correct.

Q -- part of -- and this too was dismissed on statute of limitations grounds, right?

A I believe so.

Q Okay. Thank you.

A You know, I know that Highland is liable for the transfer of promissory stock and the unjust enrichment. I don't know if (inaudible).

Q Okay. Well, we'll leave that alone. Okay? I think that -- that's what we've actually offered to allow your claim for, for all of those claims. Let's --

THE COURT: Mr. Morris, I want to make sure --

MR. MORRIS: Yes, Your Honor.

THE COURT: -- the record is clear about what Mr. Daugherty was testifying about the last five minutes.

MR. MORRIS: Sure.

THE COURT: This is, of course, an attachment to Daugherty's original proof of claim, but it is in the record at Docket Entry #1388, which was collectively all of Daugherty's exhibits for today, and it was at --

MR. MORRIS: Right.

THE COURT: -- Subpart 40, or Exhibit 40 therein, Subpart A of that.

All right. Did you want to offer that or does anyone want to offer that into evidence so that the record will make sense?

MR. MORRIS: Sure. I'll take it upon myself for this specific exhibit, Your Honor.

THE COURT: Okay.

MR. MORRIS: I offer -- I offer PHD Exhibit 40 unto evidence.

THE COURT: Okay. And I assume there's no objection since that was Daugherty's exhibit. It's admitted.

MR. UEBLER: No objection.

THE COURT: Okay.

(Patrick Daugherty's Exhibit 40 is received into evidence.)

BY MR. MORRIS:

Q Mr. Daugherty, let's just talk for a moment as to the timing of your departure from Strand. You were an officer of Strand at one point; isn't that right?

A Yes.

Q Do you have any letter of resignation or any other documentation that shows the date on which you were no longer an officer of Strand?

A I don't recall.

Q Okay.

MR. MORRIS: Can we please call up Exhibit X2? Your Honor, this is one of the two exhibits that I shared with counsel earlier today that are the corporate records that show the officers of Strand at various points in time.

THE COURT: All right. Are they on the docket?

MR. MORRIS: This goes to -- this goes to -- they're not. This goes to the indemnification claim.

THE COURT: Okay.

MR. MORRIS: All right. So if we can get X2 up, please.

(Pause.)

MS. CANTY: I'm sorry, John. One second. The computer's acting a little crazy.

MR. MORRIS: Okay.

(Pause.)

You know, Your Honor, instead of taking the Court's time with this, I don't need to cross-examine Mr. Daugherty with this. What I'd like to do is, because I've shared the documents with Mr. Daugherty's counsel -- oh, here it is.

Okay.

THE COURT: Okay.

MR. MORRIS: So let's just --

THE WITNESS: I see it.

MR. MORRIS: Thank you. Let's just get through this quickly.

BY MR. MORRIS:

Q Do you recall that, when you were an officer of Strand, that from time to time you signed a document that identified all of the officers of that entity?

A No.

Q Okay.

MR. MORRIS: Can you scroll down a little bit here?

BY MR. MORRIS:

Q Do you see that this is --

MR. MORRIS: I'm sorry, just a -- not quite so much. I want to see the first paragraph.

BY MR. MORRIS:

Q It says that "I am the president of Strand Advisors" and that Mr. Dondero was certifying that the people below were duly appointed and qualified to serve as officers of Strand. I'm paraphrasing a bit there. Do you see that?

A I can read it.

Q Okay. And do you see the third line down is you?

A Correct.

Q And that's your signature?
A It appears to be.
Q And did you serve in the capacity as Secretary of Strand?
A I mean, I served in various capacities. So I was agent, I was representative, I was an officer. I never was limited to just being Secretary.
Q Okay. But that's what you signed this document as, right?
A That's what my signature is next to.
Q Okay.

MR. MORRIS: And if you scroll down a little bit, let's just see the date.

BY MR. MORRIS:
Q And so that's August of 2006.

MR. MORRIS: Can we go to the next page, please?

BY MR. MORRIS:
Q You signed the next iteration of this as Secretary. Do you see that?
A I do.

MR. MORRIS: Can we scroll down a few lines to see the date?

BY MR. MORRIS:
Q That's February 27, 2007, okay? And all of these folks were officers at the time, do you recall?
A No.
Q No, you don't recall that?

A Huh-uh. I don't remember Nicky being an officer or Jim (inaudible) or Ron Williams.

Q Okay. It was 13 years ago.

MR. MORRIS: Let's scroll to the next page, please.

BY MR. MORRIS:

Q Do you see --

MR. MORRIS: Scroll down a little further.

BY MR. MORRIS:

Q You're now -- you've now been designated Assistant Secretary. Do you see that?

A Yes.

Q And that's your signature?

A It is.

Q And two lines above that, do you see there's Michael Colvin?

A Colvin, yes.

Q Yeah. And did you understand that he was Secretary of Strand at one point?

A I didn't focus on it one way or the other.

Q He submitted -- Mr. Colvin submitted a declaration last night on your behalf; isn't that right?

A He did.

Q And he said he couldn't recall when you stepped down from your position as an officer of Strand, right?

A Words to that effect, yes.

MR. MORRIS: Can we just show the date of this document? So, this is January 2008. Let's go to the next page. Here, again, if we can scroll down a little further, --

BY MR. MORRIS:

Q -- you have Mr. Colvin signing and you also signing as Assistant Secretary. Do you see that?

A I do.

Q And that's your signature?

A Yes.

MR. MORRIS: Okay. Can we just see the date of this document? This is May 2008. Let's go to the next page.

BY MR. MORRIS:

Q Okay. Again, Mr. Colvin as Secretary and you as Assistant Secretary; is that right?

A Yes.

Q And that's your signature?

A Yes.

Q And it's March 1st, 2009, right?

A That's what it says, yes.

MR. MORRIS: Okay. Let's go to the next page. Stop.

BY MR. MORRIS:

Q You see Mr. Colvin is still there, but you're not, right?

A Correct.

Q And this is dated May 29, 2009, right?

A Correct.

Q So Mr. Colvin, the person who submitted a declaration on your behalf, signed a document where you're no longer listed as an officer of Strand as of May 29, 2009, fair?
A That is correct.
Q Okay.
MR. MORRIS: Let's just keep going.
BY MR. MORRIS:
Q This one is dated January 2010. Again, Mr. Colvin was on and you're not, right?
A Correct.
MR. MORRIS: Next page.
BY MR. MORRIS:
Q Mr. Colvin was here as Secretary and you're not listed as an officer of Strand as of July 1st, 2010, right?
A That's correct.
Q Okay. Does -- does -- do these documents refresh your recollection that you stepped down as an officer of Strand sometime between March and May of 2009?
A No.
Q Okay.
MR. MORRIS: Can we call up the other exhibit, please?
BY MR. MORRIS:
Q This is a document entitled Secretary's Certificate. Do you see that?

A I do.
Q And do you see Mr. Colvin signed it as Secretary?
A I do.
Q And do you see that it was delivered on behalf of Strand Advisors?
A No.
Q Up at the top line.
A Oh, yes.
Q Okay. And Mr. Colvin signed this as of August 4, 2009, right?
A Well, it's --
Q Above his signature?
A Well, Highland had the practice of -- it sort of had the practice where they would put an effective date prior to the actual time that the document was created.
Q So Mr. Colvin, the person and the attorney who submitted a declaration on your behalf, signed this document as of August 4, 2009, right?
A Well, well, it says, The undersigned has executed, so yeah, I'm just going to have to say yes. I'm just not sure -- I don't know, I guess, is my obvious question of when he actually signed it.
Q Okay. Well, he was comfortable signing it as of August 4, 2009, is that fair, based on his signature?
A I mean, you're showing me a document with his signature on

it. That's all I see in front of me. I don't know what he was comfortable with.

Q Okay. And in Paragraph 1, it says that, The resolutions attached as Exhibit A have been duly authorized by the company, by the company's sole director. Do you see that?

A I do.

MR. MORRIS: Let's look at Exhibit A, please, if we can scroll down.

BY MR. MORRIS:

Q And this is the consent of the sole director as of May 29, 2009. Do you see that?

A Yeah. (inaudible) as Treasurer?

Q No, we'll scroll down, sir. No problem.

MR. MORRIS: Let's keep scrolling down. Okay. All right.

BY MR. MORRIS:

Q And there's your list of officers, and you don't appear there, right?

A I don't appear there, no.

Q And so would you agree that Mr. Colvin, the attorney who signed the declaration on your behalf last night, signed a Secretary's Certificate pursuant to which he attested to the accuracy of the resolution, that as of May 29, 2009 the officers were as listed here and it didn't include -- did not include you?

A Okay. I just want to clarify a couple things. One, he signed it on Friday. You know, just so you know, it didn't get created last night. And will you ask me the rest of that question?

Q Sure. I apologize. I just didn't see it until last night, and that's why I'm referring to last night, because I didn't see it until it was filed.

A I think we included it in the exhibit list on Friday.

Q Okay. I know it was on the list. In fact, that's where --

A I pulled it off the Internet from the court site, so they had it.

Q You're not on this list of officers?

A I'm not on this list, no.

Q Okay. And just a few more questions, sir.

THE COURT: I'm going to make sure the record is clear once again. Are you going to offer into evidence these pages you've described as Exhibit X2, so we --

MR. MORRIS: X2 and X1.

THE COURT: X2 and X1?

MR. MORRIS: Yes.

THE COURT: All right.

MR. MORRIS: And we will file -- we will file an amended list for the docket, Your Honor. But again, this just came up a couple of hours before the hearing, because

personally I didn't see the Colvin declaration until I woke up this morning. I asked the question and I got these documents. So these documents are being tendered in response to that very specific declaration.

THE COURT: All right. It was filed at 6:11 p.m. last night, in case -- Central Time.

MR. MORRIS: Right.

THE COURT: Any objection to X1 and X2?

MR. UEBLER: And Your Honor, this is Tom Uebler. For purposes of this summary proceeding, I'm inclined not to object to the document. We've both put a lot of paper before the Court. But we would reserve our right to explore these documents further in discovery on the merits and try to find out why we didn't see them for the last three years in Delaware.

THE COURT: All right. So X1 and X2 will be admitted for today's hearing. And Mr. Morris, you're going to file them later on the docket.

MR. MORRIS: Yes, Your Honor.

(Debtors' Exhibits X1 and X2 received into evidence.)

MR. MORRIS: Yes, Your Honor. Just a few more questions. I know we're almost out of time here.

BY MR. MORRIS:

Q Mr. Daugherty, just quickly, in the Texas action you were found liable for breaching your fiduciary duty to Highland;

isn't that correct?
A Correct.
Q And you were ordered to pay Highland's legal fees of approximately $2.8 million; is that right?
A Correct.
Q The litigation that you -- excuse me. Withdrawn. The claims that you have been pursuing against all of the Highland-related people and entities, you would be the beneficiary of any judgment that you obtained, right?
A I don't know what you mean by that.
Q You are the sole plaintiff in all of these cases?
A On the actions that I brought?
Q Yes.
A I believe so, yeah.
Q Okay. And so any judgment that's rendered will be rendered in your own personal capacity; isn't that right?
A Yes.
Q You didn't bring --
A Well, I'm the plaintiff, I guess is what I'm saying.
Q Yeah. That's fair.
A So, I mean, yeah, the payments will go to me.
Q Okay. You mentioned something about a criminal case being overturned on appeal.
A I didn't. My lawyer did.
Q Okay. Can you just describe for the Court what the

original charge was?

A I don't believe that it's relevant, but there was an injunction put in place that said that -- that prohibited me from retaining Highland's account information. And over the course of, I don't know, from about 2014 to 2018, Highland brought eight different, you know, variations of show cause violations on that injunction against me. Eight times I had to defend. And one of those eight was based on Josh Terry had just been terminated from Highland and I saw him, I think, I saw him in London May of 2016. He got terminated in June. I sent him -- I walked up to his house and handwrote him a letter extending my condolences and --

MR. MORRIS: Your Honor, I'm going to --

THE WITNESS: You asked me a question and I'm trying to answer it.

BY MR. MORRIS:

Q I apologize. I apologize. Let me ask a different question because -- because that wasn't responsive to what I was asking. Were you found in contempt of court?

A No.

Q Okay. What crime were you charged with?

A I was charged with contempt of court violating the injunction. And a three-member panel at the Texas Court of Appeals found unanimously in my favor that there was no evidence that I violated the injunction.

Q But the trial court did in fact not only find that there was evidence, but the trial court is the one who imposed the judgment against you; is that fair?
A That is correct. And he was ordered to vacate that ruling.
Q Okay.
MR. MORRIS: Your Honor, I have no further questions.
THE COURT: All right. Redirect?
MR. UEBLER: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. UEBLER:
Q Mr. Daugherty, the fee award that Mr. Morris referred to in Highland's favor, did you pay that?
A I did. I wired approximately $3.1 million to Highland, I want to say, December 13th or 14th, 2016.
Q 2016?
A Yeah.
Q What amount have you received form Highland or any of its affiliates as a result of the judgment you obtained?
A Zero.
Q With respect to Strand Advisors, when did you last serve as an agent of Strand?
A January-February 2012, when Highland enlisted me to meet with the Crusader investors, and I guess one called a Stratus (phonetic) investor, to the Stratus -- as I mentioned, there

was two categories. One, my view on value of various Top 40 portfolio investments, and two, to discuss my reasons for leaving Highland.

Q When did you last serve as a representative of Strand?

A In that January-February 2012 time frame.

Q Were you authorized to sign documents on behalf of Strand Advisors?

A Yes.

Q When did that authority cease?

A When my employment at Highland terminated in October 2011.

MR. UEBLER: Your Honor, I have no further questions.

THE COURT: Any recross?

MR. MORRIS: Mr. Daugherty? Yes, Your Honor.

THE COURT: Go ahead.

RECROSS-EXAMINATION

BY MR. MORRIS:

Q Mr. Daugherty, did you submit any documentation in support of your contention that you served not as an officer but as an agent or a representative of Strand until the time of your departure in 2011?

A Yes.

Q All right.

MR. MORRIS: No further questions, Your Honor.

THE COURT: All right. Thank you.

Mr. Daugherty, we appreciate your testimony. You're

excused.

THE WITNESS: Thank you, Judge.

THE COURT: All right. Mr. Uebler, do you have any other evidence today?

MR. UEBLER: I don't have any other evidence, Your Honor, just some very brief closing remarks, if that's permitted. And I see we have four minutes left, so I'll defer to the Court.

THE COURT: Well, I won't cut you off cold in four minutes.

Mr. Morris, did the Debtor have any evidence today?

MR. MORRIS: Yes, Your Honor. Does Mr. Daugherty rest?

THE COURT: Yes, they rested. What I understood, they rest.

MR. UEBLER: I -- that's correct. I mean, subject to my comment earlier about submitting the exhibits and the papers as part of our case.

THE COURT: Well, let's make sure we get all of Mr. Daugherty's evidence in before I shift over to Mr. Morris. So what else did you want to offer?

MR. UEBLER: Only the -- the papers we've provided, including Mr. Daugherty's declaration and the exhibits attached to our motion and our reply.

THE COURT: All right. So those were filed as

separate exhibits at Docket Entry No. 1388. I think it's all there, correct?

MR. UEBLER: Correct.

THE COURT: All right. So it looks like it's Exhibits 1 through 42 that appear there.

Any objection, Mr. Morris?

MR. MORRIS: Yes, Your Honor. I object to the admission into evidence of Exhibits 7 through 10, No. 14, and No. 17 through 38, on grounds that they are irrelevant in light of the fact that the Debtor has conceded for purposes of voting the $9.1 million in claims, and on the separate ground under Rule of Evidence 403 that any probative value of this material is greatly outweighed by the waste of time and the irrelevance of the subject matter.

I will point out just some examples, Your Honor. And this is why the Debtor really doesn't put this stuff in the record, because it is so irrelevant to these claims. But he's got things in there, the Court of Appeals decision on his criminal case. He's got a Crusader presentation. Actually, I -- we also object to that one, which is Exhibit 5. We've got, you know, appellate decisions, the escrow correspondence. We've got a Court of Appeals mandate. We've got correspondence relating to the escrow at Exhibit 30. We've got a transcript on an argument on a motion to compel. We've got motions for the argument.

If you look at these documents, Your Honor, they really have nothing to do with the claims that are being made here. Certainly, in light of the Defendant -- in light of the Debtor's concessions that we've made, we don't think that the record should include any of the documents that I've identified.

THE COURT: All right. Mr. Uebler, it's 2,619 pages in all. And what do you say to that objection?

MR. UEBLER: I agree they are prejudicial documents, Your Honor, but that doesn't make them inadmissible. They're prejudicial documents because they establish Mr. Daugherty's right to fee shifting under the bad-faith exception to the *American* Rule.

This is not, as Mr. Morris said earlier, a case where both sides' hands are dirty. This is a case where the Delaware court found the crime fraud exception applied. Based on my research, that was the second time that has happened in Delaware. That's a big deal.

And the transcripts that we put in, the motions for re-argument, the history we have presented in those 2,000 pages supports Mr. Daugherty's claim. It's directly relevant to an issue that I think Mr. Morris referred to as frivolous earlier, but I don't want to put words in his mouth. It's directly relevant, and that relevance by far outweighs any prejudice to Highland, or at least prejudice that wasn't of

its own making.

So it should all be submitted at a minimum for the purpose of considering Mr. Daugherty's request for fees.

THE COURT: Okay. I overrule the objection. I'll admit Exhibits 1 through 42.

(Patrick Daugherty's Exhibits 1 through 42 are received into evidence.)

THE COURT: All right. So you rest at this point?

MR. UEBLER: Yes. Thank you, Your Honor.

THE COURT: All right. Mr. Morris?

MR. MORRIS: Yeah, just one clarification there, Your Honor. Is Mr. Daugherty attempting to offer into evidence Mr. Colvin's declaration?

THE COURT: I did not hear him offer that.

MR. UEBLER: I believe that's No. 42, Your Honor, so the answer is yes. And Mr. Morris had ample opportunity to question Mr. Daugherty about the substance of the declaration.

MR. MORRIS: Your Honor, it's --

THE COURT: Oh, okay. I had misunderstood.

MR. MORRIS: Okay.

THE COURT: It is Exhibit 42, even though it was just filed separately on the docket last night. So did you have an objection, Mr. Morris?

MR. MORRIS: I do. It's hearsay, Your Honor. It's being offered for the truth of the matter asserted by a

witness who is not available to be cross-examined.

THE COURT: Okay. I sustain --

MR. UEBLER: Your Honor, --

THE COURT: I sustain that objection. 42 will not be admitted. All right.

(Admission of exhibits revised to exclude Patrick Daugherty's Exhibit 42.)

THE COURT: Mr. Morris, you have evidence?

MR. MORRIS: Yeah. So the Debtor offers into evidence Exhibits A through -- Exhibits A through V. And I guess Exhibits X1 and X2 have already been admitted.

THE COURT: All right. Let's be clear there. Those appear --

MR. KATHMAN: Your Honor? Your Honor, this is Jason Kathman. And I just wanted to -- on Exhibit 42, we talked with Mr. Morris, and maybe I had a misunderstanding, but my understanding is that we were going to present witnesses via declarations in that manner. And there had been some discussion about -- and giving him the opportunity to cross-examine Mr. Daugherty. So if I misunderstood the agreement, that's on me, but there was -- we had I believe it was in two phone calls, and I think he's had more (inaudible), about how testimony and witnesses would be presented for this hearing. And if Mr. Colvin is outside of that, again, maybe I'm misunderstanding, but I at least wanted to raise that issue.

MR. MORRIS: Your Honor, respectfully, I have great respect for Mr. Kathman, but he is misunderstanding. I would never, ever permit a declaration to come into evidence in a matter like this without the ability to cross-examine. I can describe for the Court what the offer was, but it was not that.

THE COURT: Okay. Well, I regret there was a misunderstanding, but just pulling this up, while it's only a one-and-a-half page declaration, it has 57 pages of attachments, or approximately 57 pages of just all kinds of things that I can presume the Debtor might want to cross-examine Mr. Colvin on. So I again sustain the objection. 42 will not come in.

All right. Mr. Morris, your evidence. Where do Exhibits A through V appear on the docket? I need to refresh my memory.

MR. MORRIS: Your Honor, just to let you know what happened last night, because we were working with Mr. Daugherty's counsels on redaction, and I think Mr. Anabel, with your Court's permission, allowed us to email the documents to you, and we had emailed them to Mr. Daugherty because we weren't sure at the late moment as to where we were going to be with the redactions. We can certainly file everything now. But Your Honor has those documents.

THE COURT: Okay. I do have those. I knew that

there were several emails that they were attached to. I just didn't know if they were separately on the docket. So, again, let me pull those up. It's A through V?

MR. MORRIS: Yes.

THE COURT: Any objections by Daugherty's counsel?

MR. UEBLER: Your Honor, as I said, for this summary proceeding, we're not going to object to A through V. But with the exclusion of Daugherty 42, the Colvin declaration, it seems that X1 and X2 have no relevance anymore and should be excluded. Mr. Morris stated earlier that those two documents were submitted expressly in response to the Colvin declaration. With that out, Exhibits X1 and X2 should be out as well.

THE COURT: Okay. Your response, Mr. Morris?

MR. MORRIS: Yeah, very briefly. Number one, I used them to cross-examine his witness. I offered them into evidence. There was no objection. They've already been admitted into court. So I think this issue is moot.

But number two, when Mr. Daugherty said that he didn't -- I don't remember exactly what his testimony was, but suffice it to say that he wouldn't agree that he had resigned sometime between March 3rd and -- between March and May of 2009, I certainly could have used them as impeachment documents under any circumstance.

THE COURT: All right. I overrule the objection. X1

and X2 are in.

(Debtors' Exhibits X1 and X2 are again received into evidence.

THE COURT: Again, I think not only were they admitted without objection earlier, but they do, I guess you would say, contradict some of the testimony of Mr. Daugherty. His position, as I hear it, is he was still an agent, or he was an agent at least of Strand beyond the May 2009 time period. And these are documents that arguably impeach that testimony.

All right. So A through V and X1 and X2 are admitted.

(Debtors' Exhibits A through V and X1 and X2 received into evidence.)

THE COURT: If I could just ask, Mr. Morris, that you all later submit on the docket these exhibits, all of them, so we don't have to go back and print out the email attachments and do it the old-fashioned way.

MR. MORRIS: Sure.

THE COURT: All right. Any other evidence?

MR. MORRIS: No, Your Honor. The Debtor rests.

THE COURT: All right. I'll hear brief closing arguments. Mr. Uebler, you first. (Pause.) Mr. Uebler, you're on mute, sir. Mr. Uebler?

CLOSING ARGUMENT ON BEHALF OF CREDITOR PATRICK DAUGHERTY

MR. UEBLER: Thank you. Let me try that again. I

want to start by responding to one of Mr. Morris's questions of Mr. Daugherty, which was, Did you submit any papers in this case that would establish that you were either an officer or an agent of Strand through resignation in 2011? That's Exhibit 2. It is, in fact, Highland's answer in the Delaware case at Paragraph 66, where Defendants admit that Daugherty served as an officer and agent of Strand from 2004 until he resigned from Highland in 2011. So I think that should answer Mr. Morris's question.

Let me just conclude by some comments that James Seery recently made in a deposition. He said, Equally, on the other side, you could say that the man's life was ripped out from him, that his position was taken away, that he got an arbitration award that arguably the Debtor and the Debtors' management at the time stripped away all the assets and pretty patently denuded it to try to leave him with no recovery. Then when he sought a recovery, they sought to sue him in every jurisdiction in the world and basically ruin the guy's life and put him in a position where, while to some it might seem a windfall, to him it might seem just.

Mr. Seery was talking about Josh Terry, not Mr. Daugherty. But Highland's blueprint for ruining a guy's life originated from its treatment of Mr. Daugherty.

We've given you reasons today to permit the full amount of the three remaining disputed issues for voting purposes for

Mr. Daugherty's claim. Allowing that full amount will protect Mr. Daugherty as a creditor, give him his appropriate say in any plan that's presented, and would hopefully bring these parties at least one step closer to resolution.

Thank you for your time today.

THE COURT: Thank you, Mr. Uebler. Mr. Morris?

CLOSING ARGUMENT ON BEHALF OF THE DEBTORS

MR. MORRIS: Yeah. Very briefly, I'll just borrow Mr. Uebler's phraseology and say that it would not be just to give to Mr. Daugherty anything on account of a $21 million claim that has already been dismissed and that his testimony just established will be time-barred. We don't believe that it would be just to give him anything on account of a tax claim that is completely contingent, unliquidated, and where the Debtor admittedly owes absolutely nothing to Mr. Daugherty today.

I can't imagine what it's been like to go through this litigation, just like I couldn't imagine from Mr. Terry's perspective, from Mr. Dondero's perspective. These people have been at this for a decade. That's not what -- that's, you know, it's not anything I can get my arms around. What I'm here to do is to protect the Debtors' estate and its stakeholders, including its general unsecured creditors.

Mr. Daugherty is going to have a very meaningful claim if the Court allows his claim for voting purposes at $9 million.

It's going to be the third biggest claim, at least at this point, of anybody. So that's just. It's just that he has a seat at the table. We're offering him a seat at the table. But he shouldn't get anything on account of the claims that really have little to no merit.

Thank you, Your Honor.

THE COURT: All right. Thank you.

Well, I thank you for your thoroughness, your professional courtesy that was very visible here today.

As I started out with today, Bankruptcy Rule 3018(a) is what guides us. That rule is a provision that states, quote, Notwithstanding an objection to a claim, the Court may temporarily allow a claim for voting purposes in such amount the Court deems proper, after notice and a hearing.

There are many cases that have attempted to kind of impose a legal framework for analysis on that rule because, as you've just heard, the rule doesn't give much detail. The cases all sort of sing the same tune, that the rule contemplates only a summary estimation proceeding, not a full trial on the merits. The Court has great discretion to employ whatever method is best-suited to the circumstances of the case in determining what amount should be allowed for voting purposes. The Court should consider things like whether there's a last-minute objection to strategically prevent a creditor from voting who might vote no and the objection might be frivolous, that sort

of thing. And all decisions are reviewed for abuse of discretion, should there be any appeal.

So that is the rule and the case law interpreting the rule. Based on that, I will note that we start out here with an amended proof of claim filed by Mr. Daugherty in the amount of $40,710,819.42. And I studied hard before coming out here today the addendum to that proof of claim filed by Mr. Daugherty. It had a description of the claim that was done in the form of a chart. I'm holding it up here -- I don't know if it picks up on camera -- what I'm looking at. But it appears at Docket Entry 1280-2. It was part of the appendix to the motion to estimate claim.

So the amount is broken down into components. If you're looking at that chart -- again, which was most helpful -- I note that in the claim of Daugherty for HERA units, there are different line items that total approximately $26 million and some change. So that's the issue we've talked about a lot today. Is it correct, is it reasonable to assume that Daugherty might be entitled to a hundred percent of the value or a hundred percent of the HERA units? So, I found that, based on the evidence and the argument, to be a problematic assumption. Again, one day we will have a trial on the adversary, a trial on the proof of claim. I will hear every bit of relevant evidence that the parties choose to put in on that issue. But for our purposes today, under Rule 3018, I

just found considerable doubt that that would be an appropriate damage calculation here.

So, again, using my discretion, I found that, at a minimum, you should reduce that $26 million-plus component of the Daugherty proof of claim by the roughly 81 percent, because it was 19.1 percent, I think, that Daugherty would have been entitled to of the HERA units. So that's a roughly $5 million amount, or a $19 million reduction that -- excuse me. I did my math wrong. That's a $21 million reduction that I think would be reasonable for estimation purposes under 3018.

Further looking at the chart that breaks down Daugherty's claim -- we discussed this today in testimony -- there is an attorney fee component that aggregates to $7,854,752.31, and that's the indemnification, it's the interest on indemnification award, it's the fee shifting fees on fee award. And once again, looking at this through the lens of 3018(a), I do not think it's appropriate to assume I'm going to get there, if you will, on this attorneys' fee award. There have been *bona fide* issues, if you will, raised on whether the indemnification provision that was cited would entitle Mr. Daugherty to these fees. Section 4.1(h) of the partnership agreement would be that indemnification provision.

Moreover, the deviation from the *American* Rule, if that indemnification provision does not apply, is a big hurdle to

achieve. It's very deeply rooted in our law that if you don't have a contract provision and you don't have a statute that entitles you to attorneys' fees, it's quite a high hurdle to get there, whether it be Rule 11, the vexatious litigation statute, or some common law argument of bad faith.

So, again, looking through the lens I'm looking through today, I just cannot get there under 3018.

So, doing my math, I'll go backwards. I've just said that I can't there on $7,854,750.31 of Mr. Daugherty's $40-plus million claim. I've said I can't get there on $21 million of his $40.7 million proof of claim because of the HERA, the 81 percent interest in the HERA units. So what else in that chart gives me pause? The tax refund, the 2008 tax refund component. We have $1,475,816 plus estimated interest on that of $1.174537 [million]. It's very clear that at this point this is, at best, contingent. And again, down the road we may get to a point where it's not contingent, the IRS has finished doing what it's going to do, and we may get to a point where we think a result is appropriate. I don't know. There may be, even if we get there, a subordination argument. The point is, there are *bona fide* arguments today that do not allow me to get to the point I feel like I need to get at an estimation hearing to allow this claim, these components of the claim.

So when you subtract $7.854 million and $1.475 million and $1.174 million and $21 million, that's about $32 million that

I would -- I was thinking about, before I even heard the evidence, deducting out of the claim that I would estimate for voting purposes.

That, I will tell you, is why I came out here at the very beginning today and said, Jeez, the Debtors' suggested voting claim of $9,134,019, which the Debtor came at a different way as far as the math, that sounded darn reasonable to me.

So I am going to allow a voting claim for Mr. Daugherty at $9,134,019.

Now, let me say a couple of more words why I fall back on that number. A, it's pretty close to the direction I was leaning, but B, I want Mr. Daugherty, if he's still on the line, to understand. I hope it doesn't seem like I'm giving Highland every benefit of the doubt here today and reducing your claim by every argument they made and just going at it that way. I do feel like I am obviously giving you some benefits of the doubt here. Primarily, the benefits of the doubt I'm giving you are, number one, the HERA judgment was obviously a HERA judgment. I mean, it was a judgment awarded to Mr. Daugherty against HERA, not Highland per se, right? I didn't misunderstand that. So I am assuming you have got darn good arguments, Mr. Daugherty, to hold Highland liable for that HERA award, plus the pre-judgment and post-judgment interest, up to the bankruptcy petition date of October 16th, 2019.

So I'm giving you the benefit of the doubt there, and on -- well, I do want to make one more point on the attorneys' fees. Again, that was a huge component of your proof of claim. And I certainly well understand the bad faith arguments and your many ways you think you will have of getting attorneys' fees at the end of the day. But I'm sitting here today looking at the fact that the Texas state court actually awarded Highland attorneys' fees against you. Now, I understand, or I think I understand, that was somewhat of a discrete issue with regard to the breach of fiduciary duty arguments in sharing information or taking files or information. And you might argue, well, that was very discrete, and obviously you paid it. But all this to say there are lots of a *bona fide* disputes here, I think. And again, the rule doesn't use that term, *bona fide* disputes, but, again, I have lots of discretion here, and I think, at the end of the day, a roughly $9 million voting claim is very reasonable.

I know the point I ended up making. I've also given you the benefit of the doubt, Mr. Daugherty, on the roughly $5 million claim I'm giving you for the 19 percent of the HERA assets. And I understand there were things about the Texas state court judgment that left that a little ambiguous, whether you could get that or whether that would be double-counting. But again, I just, I want you to know that I

haven't weighed every benefit of the doubt in favor of Highland here. I've weighed a couple of these doubts in your favor.

All right. So, $9,134,019 is the voting claim of Mr. Daugherty. Again, this is without prejudice or waiver of any arguments at a later trial on the claim for distribution purposes.

Are there any questions?

MR. DAUGHERTY: Just, you asked if I was on. I just wanted to let you know I got back on. I took my (inaudible). But I heard every word and I appreciate your comments.

THE COURT: All right. Thank you, Mr. Daugherty.

Mr. Morris, would you be the scrivener on this order? And of course, run it by Mr. Uebler and Kathman.

MR. MORRIS: Of course, Your Honor.

MR. KATHMAN: Your Honor? Your Honor, this is Jason Kathman. We have just one housekeeping issue. We had filed, when we filed our motion to -- this 3018 motion at Docket No. 1280, actually, we filed a motion for leave to amend our proof of claim, which is the -- actually, the chart that I think Your Honor was looking at was the chart that we attached to our amended proof of claim. We filed that with negative notice, and that negative notice actually ran yesterday. So we'll upload a certificate of no objection. But just, while we're here on the record, I wanted to ask for the Court to

approve that motion for leave to file an amended proof of claim.

THE COURT: Okay. So I neglected to note that detail. I was of the impression it wasn't contested, and in fact, the objection deadline has run. So I will accept your order on that. Okay?

MR. KATHMAN: Thank you, Your Honor.

THE COURT: All right. Thank you all. We stand adjourned.

MR. MORRIS: Thank you, Your Honor.

THE CLERK: All rise.

(Proceedings concluded at 3:59 p.m.)

--oOo--

CERTIFICATE

I certify that the foregoing is a correct transcript to the best of my ability from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Kathy Rehling **11/18/2020**

_____ _____

Kathy Rehling, CETD-444 Date
Certified Electronic Court Transcriber

INDEX

PROCEEDINGS 3

WITNESSES

Creditor Patrick Daugherty's Witnesses

Patrick Daugherty
- Direct Examination by Mr. Uebler 29
- Cross-Examination by Mr. Morris 44
- Redirect Examination by Mr. Uebler 70
- Recross-Examination by Mr. Morris 71

EXHIBITS

Patrick Daugherty's Exhibit 40	Received	57
Patrick Daugherty's Exhibits 1 through 42	Received	75
Patrick Daugherty's Exhibit 42	Denied	76
Debtors' Exhibits X1 and X2	Received	67
Debtors' Exhibits X1 and X2	Received	78
Debtors' Exhibits A through V, X1, and X2	Received	79

CLOSING ARGUMENTS

By Mr. Uebler 79
By Mr. Morris 81

RULINGS

Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes (1281) 82

END OF PROCEEDINGS 89

INDEX 90

PD-6

EXHIBIT 60

EXECUTION VERSION

TOLLING AGREEMENT EXTENDING CLAIM OBJECTION DEADLINE

This Tolling Agreement (the "Agreement") is made as of July 27, 2022 (the "Effective Date"), by and between Patrick Hagaman Daugherty ("Mr. Daugherty"), on the one hand, and Highland Capital Management, L.P. ("Highland" or the "Debtor," as applicable) and the Highland Claimant Trust (the "Claimant Trust," and together with Highland, the "Highland Parties"), on the other. Each of Mr. Daugherty, Highland, and the Claimant Trust are individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Mr. Daugherty is a former employee and limited partner of Highland and served in other positions with affiliates and former affiliates of Highland from time to time;

WHEREAS, on October 16, 2019, Highland filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Case"), which is pending in the U.S. Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, on April 1, 2020, Mr. Daugherty filed a general, unsecured, non-priority claim against Highland in the amount of at "least $37,483,876.59," and such claim was denoted by Highland's claims agent as Proof of Claim No. 67 ("Claim No. 67");

WHEREAS, on April 6, 2020, Mr. Daugherty filed a general, unsecured, non-priority claim against Highland in the amount of at "least $37,482,876.62" that superseded Claim No. 67 and that was denoted by Highland's claims agent as Proof of Claim No. 77 ("Claim No. 77");

WHEREAS, on August 31, 2020, Highland commenced an adversary proceeding, Adv. Proc. No. 20-03107-sgj (Bankr. N.D. Tex.) (the "Adversary Proceeding"), against Mr. Daugherty by filing a complaint [Adv. Dkt. No. 1][1] (the "Complaint") in which Highland (a) objected to Claim No. 77 on various grounds, and (b) asserted a cause of action for the subordination of part of Mr. Daugherty's claim pursuant to 11 U.S.C. § 510(b);

WHEREAS, on September 29, 2020, Mr. Daugherty filed his answer to the Complaint [Adv. Dkt. No. 8] in the Adversary Proceeding;

WHEREAS, on October 23, 2020, Mr. Daugherty filed a motion seeking leave to amend Claim No. 77 [Bankr. Dkt. No. 1280][2] (the "POC Amendment Motion") and attached an amended proof of claim to the POC Amendment Motion increasing Mr. Daugherty's general, unsecured, non-priority claim against Highland to the amount of at "least $40,410,819.42" and sought to supersede Claim No. 67 and Claim No. 77;

[1] Adv. Dkt. No. refers to the docket maintained in the Adversary Proceeding.

[2] Bankr. Dkt. No. refers to the docket maintained in the Bankruptcy Case.

WHEREAS, on December 10, 2020, the Bankruptcy Court entered an order [Bankr. Dkt. No. 1533] granting the POC Amendment Motion, and Mr. Daugherty was permitted to file an amendment to his proof of claim;

WHEREAS, on December 23, 2020, Mr. Daugherty filed an amended proof of claim, designated by Highland's claims agent as Proof of Claim No. 205 ("Claim No. 205," and together with Claim No. 67 Claim No. 77, the "Daugherty Claim");

WHEREAS, Claim No. 205 superseded Claim No. 77 and increased the Daugherty Claim to $40,710,819.42;

WHEREAS, on February 22, 2021, the Bankruptcy Court entered its *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Bankr. Dkt. No. 1943] (the "Confirmation Order") confirming the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Bankr. Dkt. No. 1808] (as amended, supplemented, or modified, the "Plan");

WHEREAS, on August 11, 2021, the Effective Date (as defined in the Plan) occurred [Bankr. Dkt. No. 2700];

WHEREAS, on or about November 22, 2021, Highland and Mr. Daugherty executed that certain Settlement Agreement (the "Settlement Agreement") attached as Exhibit 1 to the *Declaration of John A. Morris in Support of the Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Dkt. No. 3089] filed in support of the *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Dkt. No. 3088] (the "Settlement Motion");

WHEREAS, following an evidentiary hearing on the Settlement Motion held on March 1, 2022, the Bankruptcy Court entered its order [Bankr. Dkt. No. 3298] (the "Settlement Order") approving the Settlement Motion and the Parties' entry into the Settlement Agreement;

WHEREAS, pursuant to the Settlement Order, the Daugherty Claim, excluding the Reserved Claim,[3] was satisfied in its entirety;

WHEREAS, the Highland Parties dispute the validity and amount of the Reserved Claim and, pursuant to Section 9 of the Settlement Agreement, Mr. Daugherty and Highland reserved all rights with respect to the Reserved Claim; *provided, however*, that any litigation between Highland and Mr. Daugherty concerning the Reserved Claim was stayed until the IRS makes a final determination with respect to the dispute between the Debtor and the IRS (the "IRS Dispute") or the Highland Parties and Mr. Daugherty otherwise agree;

[3] "Reserved Claim" means the contingent and unliquidated claim as referenced in Proof of Claim No. 205 that related to an alleged claim for compensation and an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") in an amount estimated to be $2,650,353.00 as of October 23, 2020.

WHEREAS, pursuant to the Confirmation Order, the deadline to object to claims was 180 days after the Effective Date, *i.e.*, February 7, 2022, unless extended by the Bankruptcy Court (the "Claim Objection Deadline");

WHEREAS, the Claim Objection Deadline was extended by order of the Bankruptcy Court [Bankr. Dkt. No. 3198] to August 8, 2022;

WHEREAS, the Highland Parties were vested with the exclusive authority to compromise, settle, withdrew, or resolve all claims against the Debtor, including the Reserved Claim, without further order of the Bankruptcy Court pursuant to Article VII.B of the Plan;

WHEREAS, on July 6, 2022, the Highland Parties filed the *Reorganized Debtor and Claimant Trustee Joint Motion for Entry of an Order Further Extending the Claim Objection Deadline Pursuant to Confirmed Chapter 11 Plan by which Reorganized Debtor May Object to Certain Claims* [Bankr. Dkt. No. 3387] (the "Second Extension Motion");

WHEREAS, Mr. Daugherty and the Highland Parties continue to consider potential resolutions of the Reserved Claim in the absence of a resolution of the IRS Dispute;

WHEREAS, it is unknown when the IRS Dispute may be resolved; and

WHEREAS, solely to avoid the expense, inconvenience, and uncertainty associated with litigation, and without any Party admitting liability, fault, or wrongdoing, or releasing or waiving any rights or defenses with respect to the Reserved Claim, the Parties desire to enter into this Agreement to extend the Claim Objection Deadline, solely with respect to the Reserved Claim, to January 11, 2023, at 5:00 p.m. (Central Time) (the "Objection Deadline").

NOW, THEREFORE, effective as of the Effective Date, each of the Parties agrees as follows:

1. Covenant to Reserve. In consideration of Mr. Daugherty's agreement to extend the Claim Objection Deadline (as set forth in paragraph 2 of this Agreement), the Highland Parties agree not to commence any lawsuit, action or proceeding to further object to the Reserved Claim at any time until the Objection Deadline (notwithstanding Mr. Daugherty's position that the Highland Parties would have no right to do so in any event under the Settlement Agreement until such time that the IRS resolves the IRS Dispute) and further agree to reserve $2,650,353.00 on account of the Reserved Claim in the "Disputed Claim Reserve" as such term is defined in the Plan until the Parties resolve the Reserved Claim pursuant to a signed agreement, or, alternatively, an order of the Bankruptcy Court.

2. Extension of Claim Objection Deadline. In consideration of the Highland Parties' "Covenant to Reserve" (as set forth in paragraph 1 of this Agreement), Mr. Daugherty agrees that the Claim Objection Deadline applicable to the Reserved Claim is hereby tolled as of, and extended from, the Effective Date to the Objection Deadline.

3. Acknowledgement and Waiver. Mr. Daugherty acknowledges and agrees that:

a. Regardless of whether the Second Extension Motion is approved by the Bankruptcy Court, Mr. Daugherty waives any right or ability to argue (x) that the terms of this Agreement and the extension of the Claim Objection Deadline required an order of the Bankruptcy Court; or (y) the application of the expiration of the Claims Objection Deadline to the Reserved Claim; and

b. Mr. Daugherty is estopped from arguing that this Agreement is ineffective to extend the time within which the Highland Parties must object to the Reserved Claim.

4. Acknowledgement and Waiver. The Highland Parties acknowledge and agree that regardless of whether the Second Extension Motion is approved by the Bankruptcy Court, the Highland Parties waive any right or ability to argue that the terms of this Agreement and the extension of the Claim Objection Deadline required an order of the Bankruptcy Court.

5. Representations and Warranties.

a. Mr. Daugherty represents and warrants that he has not sold, transferred, hypothecated, pledged, or assigned the Reserved Claim to any other person or entity, and that no person or entity other than Mr. Daugherty has been, is, or will be authorized to bring, pursue, or enforce the Reserved Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) Mr. Daugherty.

b. Each Party represents and warrants to the other Party that such Party is fully authorized to enter into and perform the terms of this Agreement and that, as of the Effective Date, this Agreement will be fully binding upon each Party in accordance with its terms.

6. Miscellaneous.

a. Binding Effect; Successors-in-Interest. Each of the Parties agrees that this Agreement will be binding upon the Parties, and, as applicable, upon their predecessors, successors, subsidiaries, divisions, alter egos, affiliated and related entities, and their past or present officers, directors, partners, employees, attorneys, assigns, agents, representatives, and any or all of them.

b. No Admission of Liability. The Parties acknowledge that there is a bona fide dispute with respect to the validity and amount of the Reserved Claim. Nothing in this Agreement will imply an admission of liability, fault or wrongdoing by the Highland Parties, Mr. Daugherty, or any other person and the execution of this Agreement does not constitute an admission of liability, fault, or wrongdoing on the part of the Highland Parties, Mr. Daugherty, or any other person.

c. Notice. Each notice and other communication hereunder will be in writing and will be sent by email and delivered or mailed by registered mail, receipt requested, and will be deemed to have been given on the date of its delivery, if delivered, and on the fifth full business day following the date of the mailing, if mailed to each of the Parties thereto at the following respective addresses or such other address as may be specified in any notice delivered or mailed as set forth below:

Mr. Daugherty

Patrick Hagaman Daugherty
3621 Cornell Avenue, Suite 830
Dallas, TX 75205
Email: pdaugherty@glacierlakecap.com

with a copy (which shall not constitute notice) to:

McCollom D'Emilio Smith Uebler LLC
Attn: Thomas Uebler, Esquire
2751 Centerville Road, Suite 401
Wilmington, DE 19808
E-mail: tuebler@mdsulaw.com

Highland Parties

Highland Capital Management, L.P.
100 Crescent Court, Suite 1850
Dallas, Texas 75201
Attention: David Klos
E-mail: dklos@HighlandCapital.com

Highland Claimant Trust
100 Crescent Court, Suite 1850
Dallas, Texas 75201
Attention: David Klos
E-mail: dklos@HighlandCapital.com

with a copy (which shall not constitute notice) to:

Pachulski Stang Ziehl & Jones LLP
Attention: Gregory Demo, Esq.
780 Third Avenue, 34th Floor
New York, NY 10017
E-mail: gdemo@pszjlaw.com

d. Advice of Counsel. Each of the Parties represents that such Party has: (a) been adequately represented by independent legal counsel of its own choice, in the negotiation of this Agreement; (b) executed this Agreement upon the advice of such counsel; (c) read this Agreement, and understands and assents to all the terms and conditions contained herein without reservation; and (d) had the opportunity to have the terms and conditions of this Agreement explained by independent counsel, who has answered any and all questions asked of such counsel, or which could have been asked of such counsel, including, but not limited to, with regard to the meaning and effect of any of the provisions of this Agreement.

e. Counterparts. This Agreement may be signed in counterparts and such signatures may be delivered by facsimile or other electronic means.

f. Entire Agreement. This Agreement sets forth the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous written and oral agreements and discussions. This Agreement may only be amended by an agreement in writing signed by the Parties.

g. No Waiver and Reservation of Rights. Except as otherwise provided herein, nothing in this Agreement shall be, or deemed to be, a waiver of any rights, remedies or privileges of any of the Parties, and each Party hereby reserves all of such rights, privileges and remedies under applicable law.

h. No Waiver if Breach. The Parties agree that no breach of any provision hereof can be waived except in writing. The waiver of a breach of any provision hereof shall not be deemed a waiver of any other breach of any provision hereof.

i. Governing Law. This Agreement will be exclusively governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles, and all claims relating to or arising out of this Agreement, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of Delaware, excluding Delaware's conflicts of law principles.

j. Jurisdiction. The Bankruptcy Court will retain exclusive jurisdiction over disputes relating to this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IT IS HEREBY AGREED.

PATRICK HAGAMAN DAUGHERTY

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: _____
Its: _____

HIGHLAND CLAIMANT TRUST

By: _____
Name: _____
Its: _____

IT IS HEREBY AGREED.

PATRICK HAGAMAN DAUGHERTY

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: JAMES P. SEERY, JR
Its: CEO

HIGHLAND CLAIMANT TRUST

By: _____
Name: JAMES P. SEERY, JR
Its: Claimant Trustee

PD-7

EXHIBIT 61

AMENDMENT NO. 1 TO TOLLING AGREEMENT
EXTENDING CLAIM OBJECTION DEADLINE

This Amendment No. 1 (the "Amendment"), dated as of December 21, 2022, to that certain Tolling Agreement Extending Claim Objection Deadline, dated as of July 27, 2022 (the "Agreement"), is made by and between Patrick Hagaman Daugherty, on the one hand, and Highland Capital Management, L.P. and the Highland Claimant Trust, on the other. Capitalized terms used but not defined herein have the meanings given to them in the Agreement.

RECITALS

WHEREAS, the Parties entered into the Agreement to extend the Claim Objection Deadline to object to the Reserved Claim to January 11, 2023, at 5:00 p.m. (Central Time) (*i.e.*, the Objection Deadline).

WHEREAS, solely to avoid the expense, inconvenience, and uncertainty associated with litigation, the Parties desire to enter into this Amendment to further extend the Objection Deadline to object to the Reserved Claim.

NOW, THEREFORE, effective as of the date set forth above, each of the Parties agrees as follows:

1. Extension of Objection Deadline. The term Objection Deadline as used in the Agreement is hereby amended and modified to mean 5:00 p.m. (Central Time) on the earlier of (a) December 31, 2023, (b) the first business day after the date that James P. Seery, Jr., is no longer the sole trustee of the Claimant Trust, or (c) the first business day after the date that the Claimant Trust is no longer (i) Highland's sole limited partner or (ii) the sole owner of, and with the right to direct, Highland's general partner.

2. Representations and Warranties. Each Party represents and warrants that the representations and warranties set forth in Section 5 of the Agreement are true and accurate as of the date hereof.

3. Effectiveness of Agreement; No Other Changes. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is a conflict between this Amendment and the Agreement, the terms of this Amendment will prevail.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IT IS HEREBY AGREED.

PATRICK HAGAMAN DAUGHERTY

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Its: CEO

HIGHLAND CLAIMANT TRUST

By: _____
Name: James P. Seery, Jr.
Its: Claimant Trustee

PD-8

EXHIBIT 62

AMENDMENT NO. 2 TO TOLLING AGREEMENT
EXTENDING CLAIM OBJECTION DEADLINE

This Amendment No. 2 (the "Amendment"), dated as of November 6, 2023, to that certain Tolling Agreement Extending Claim Objection Deadline, dated as of July 27, 2022 (the "Tolling Agreement"), is made by and between Patrick Hagaman Daugherty, on the one hand, and Highland Capital Management, L.P. and the Highland Claimant Trust, on the other. Capitalized terms used but not defined herein have the meanings given to them in the Agreement.

RECITALS

WHEREAS, the Parties entered into the Tolling Agreement to extend the Claim Objection Deadline to object to the Reserved Claim to January 11, 2023, at 5:00 p.m. (Central Time) (*i.e.*, the Objection Deadline).

WHEREAS, the Parties entered into that certain *Amendment No. 1 to Tolling Agreement Extending Claim Objection Deadline* on December 21, 2022, further extending the deadline to object to the Reserved Claim to December 31, 2023 (or earlier if certain conditions were satisfied) (the "First Amendment," and together with the Tolling Agreement, the "Agreement").

WHEREAS, solely to avoid the expense, inconvenience, and uncertainty associated with litigation, the Parties desire to enter into this Amendment to further extend the Objection Deadline to object to the Reserved Claim.

NOW, THEREFORE, effective as of the date set forth above, each of the Parties agrees as follows:

1. Extension of Objection Deadline. The term Objection Deadline as used in the Agreement is hereby amended and modified to mean 5:00 p.m. (Central Time) on the earlier of (a) December 31, 2024, (b) the first business day after the date that James P. Seery, Jr., is no longer the sole trustee of the Claimant Trust, or (c) the first business day after the date that the Claimant Trust is no longer (i) Highland's sole limited partner or (ii) the sole owner of, and with the right to direct, Highland's general partner.

2. Representations and Warranties. Each Party represents and warrants that the representations and warranties set forth in Section 5 of the Agreement are true and accurate as of the date hereof.

3. Effectiveness of Agreement; No Other Changes. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is a conflict between this Amendment and the Agreement, the terms of this Amendment will prevail.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IT IS HEREBY AGREED.

PATRICK HAGAMAN DAUGHERTY

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: _____
Its: _____

HIGHLAND CLAIMANT TRUST

By: _____
Name: _____
Its: _____

IT IS HEREBY AGREED.

PATRICK HAGAMAN DAUGHERTY

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Its: CEO

HIGHLAND CLAIMANT TRUST

By: _____
Name: James P. Seery, Jr.
Its: Claimant Trustee

PD-9

EXHIBIT 63

AMENDMENT NO. 3 TO TOLLING AGREEMENT
EXTENDING CLAIM OBJECTION DEADLINE

This Amendment No. 3 (the "Amendment"), dated as of November 20, 2024, to that certain *Tolling Agreement Extending Claim Objection Deadline*, dated as of July 27, 2022 (the "Tolling Agreement"), is made by and between Patrick Hagaman Daugherty, on the one hand, and Highland Capital Management, L.P. and the Highland Claimant Trust, on the other. Capitalized terms used but not defined herein have the meanings given to them in the Agreement.

RECITALS

WHEREAS, the Parties entered into the Tolling Agreement to extend the Claim Objection Deadline to object to the Reserved Claim to January 11, 2023, at 5:00 p.m. (Central Time) (*i.e.*, the Objection Deadline).

WHEREAS, the Parties entered into that certain *Amendment No. 1 to Tolling Agreement Extending Claim Objection Deadline* on December 21, 2022, further extending the deadline to object to the Reserved Claim to December 31, 2023 (or earlier if certain conditions were satisfied) (the "First Amendment").

WHEREAS, the Parties entered into that certain *Amendment No. 2 to Tolling Agreement Extending Claim Objection Deadline* on November 6, 2023, further extending the deadline to object to the Reserved Claim to December 31, 2024 (or earlier if certain conditions were satisfied) (the "Second Amendment," and together with the Tolling Agreement and the First Amendment, the "Agreement").

WHEREAS, solely to avoid the expense, inconvenience, and uncertainty associated with litigation, the Parties desire to enter into this Amendment to further extend the Objection Deadline to object to the Reserved Claim.

NOW, THEREFORE, effective as of the date set forth above, each of the Parties agrees as follows:

1. Extension of Objection Deadline. The term Objection Deadline as used in the Agreement is hereby amended and modified to mean 5:00 p.m. (Central Time) on the earlier of (a) June 30, 2025, (b) the first business day after the date that James P. Seery, Jr., is no longer the sole trustee of the Claimant Trust, or (c) the first business day after the date that the Claimant Trust is no longer (i) Highland's sole limited partner or (ii) the sole owner of, and with the right to direct, Highland's general partner.

2. Representations and Warranties. Each Party represents and warrants that the representations and warranties set forth in Section 5 of the Agreement are true and accurate as of the date hereof.

3. Effectiveness of Agreement; No Other Changes. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is a conflict between this Amendment and the Agreement, the terms of this Amendment will prevail.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IT IS HEREBY AGREED.

PATRICK HAGAMAN DAUGHERTY

_____

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Its: Chief Executive Officer

HIGHLAND CLAIMANT TRUST

By: _____
Name: James P. Seery, Jr.
Its: Claimant Trustee

PD-10

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, TX 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

PATRICK DAUGHERTY'S
MOTION TO DISMISS

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Defendant Patrick Daugherty ("Daugherty") moves to dismiss this action pursuant to Federal Rule of Civil Procedure 12(b)(6) (incorporated herein by Fed. R. Bankr. P. 7012(b)) for failure to state a claim upon which relief may be granted. Further, the Court should deny leave for further amendments of the Complaint, as no amendment can cure what is otherwise a fatal defect: that the IRS Audit Dispute remains pending and is not yet final.

I. SUMMARY

1. Plaintiff filed its *Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim no. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1] (the "Complaint") in the face of a Settlement Agreement approved by this Court on March 8, 2022,[2] that mandates a stay of any litigation by and between Plaintiff and Daugherty until the Internal Revenue Service ("IRS") makes a final determination regarding an IRS Audit Dispute material to Daugherty's Reserved Claim under the Settlement Agreement.[3] As Plaintiff concedes in its briefing, that IRS Audit Dispute remains unresolved.[4] Accordingly, Plaintiff's claim is premature, subject to the

[2] *See* Doc. No. 1 at ¶ 14 (citing Main Case Docket No. 3088, which itself incorporates and relies upon the "Settlement Agreement" at Main Case Docket No. 3089, Ex. 1). When reviewing a 12(b)(6) motion to dismiss, the Court "must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on 12(b)(6) motions to dismiss, in particular documents incorporated into the complaint by reference, and matters of which a court may take judicial notice." *Funk v. Stryker Corp.*, 631 F.3d 777, 783 (5th Cir. 2011)(quoting *Tellabs Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308 (2007)). In doing so, the Court may take judicial notice of its own records. *E.g., Biliouris as next friend of Biliouris v. Patman*, 751 Fed. App'x 603, 604 (5th Cir. 2019)("court may take judicial notice of the record in prior related proceedings"); *ITT Rayonier Inc. v. U.S.*, 651 F.2d 343, 345 n.2 (5th Cir. 1981)("court may… take judicial notice of its own records…"). Plaintiff incorporated the Settlement Agreement by reference in its Complaint. Daugherty also respectfully requests the Court also take judicial notice of the Settlement Agreement at Main Case Docket No. 3089 as it considers this Motion to Dismiss.

[3] All capitalized terms used but not herein defined shall have the meanings ascribed to them in the Settlement Agreement at Main Case Docket No. 3089.

[4] Indeed, Plaintiff concedes as much stating "[o]n information and belief, the 2008 Audit has not been resolved and is heading to court with a resolution not expected until approximately 2029." Docket No. 1 at ¶ 23, n. 6.

Settlement Agreement's mandatory stay, and should be dismissed for failure to state a claim upon which relief may be granted.

II. BACKGROUND

2. On March 8, 2022, Daugherty and Plaintiff entered a Settlement Agreement to resolve, in part, his claims against Highland Capital Management, L.P. ("Debtor" or "Plaintiff"). Main Case Docket No. 3088, 3089.

3. Under that Settlement Agreement, Daugherty retained a Reserved Claim relating to an audit/dispute between the Debtor and the IRS concerning the Debtor's 2008 tax return.[5] Main Case Docket No. 3089 at Ex. 1, § 9. Critically, under the terms of the Settlement Agreement, "[a]ny litigation by and between the [Debtor] and Daugherty concerning the validity and amount of the Reserved Claim *shall be stayed* until the IRS makes a final determination with respect to the IRS Audit Dispute." *Id.* (emphasis added).

4. Despite the Settlement Agreement's mandatory stay language, Plaintiff filed its Complaint asserting three claims for relief: (1) disallowance under section 502(a) of the Bankruptcy Code; (2) estimation under section 502(c) of the Bankruptcy Code; and (3) subordination under section 510(b) of the Bankruptcy Code. *See* Docket No. 1 at ¶¶ 28-45. Each of those claims seek a determination from this Court on the "validity and amount" of Daugherty's Reserved Claim relating to the IRS Audit Dispute. Yet, Plaintiff concedes that resolution of the

[5] Although Daugherty acknowledges that for purposes of ruling on a motion to dismiss under Fed. R. Civ. P. 12(b)(6) the Court must accept as true the allegations in the Complaint, Daugherty disputes Plaintiff's characterization of the Reserved Claim. The Reserved Claim concerns a compensation and benefits contract, between Plaintiff and Daugherty relating to Daugherty's cash bonus, that was presented pursuant to a tax refund scheme developed by Plaintiff during the financial crisis in 2008 and 2009. That tax refund scheme was later challenged by the IRS. Indeed, despite Plaintiff's passing attempt to downplay the document's language as vague, the "validity and amount" issues that are the gravamen of Daugherty's Reserved Claim (which is subject to the mandatory stay) relate to whether Plaintiff's refund "deviat[ed] materially from [Debtor's] estimate" such that "other compensation [to Daugherty should have been] fairly adjusted" as promised. Docket No. 1-1. Moreover, Plaintiff's Fifth Amended Plan of Reorganization, which was confirmed by the Court, provided for "Disputed Claims" and required the Claimant Trustee under the Plan to maintain a reserve account for such claims.

IRS Audit Dispute is still pending, alleging that "Highland's 2008 tax return *is currently subject to an IRS audit*." *Id.* at ¶ 3 (emphasis added). Plaintiff further concedes "the 2008 Audit has not been resolved" and "[i]t is unclear when, how, or if the 2008 Audit will be finally resolved." *Id.* at ¶¶ 4, 23 n. 6; *see also id.* at ¶ 38. Finally, Plaintiff acknowledges Daugherty's Reserved Claim is "contingent on the final outcome of the 2008 Audit." *Id.* at ¶ 35.

5. As such, Plaintiff's claims are premature, run afoul of the Settlement Agreement's mandatory stay, and should be dismissed pursuant Fed. R. Civ. P. 12(b)(6).

III. LEGAL STANDARD

6. To survive a motion to dismiss under Rule 12(b)(6), Plaintiff must assert a theory that could entitle it to relief. Fed. R. Civ. P. 12(b)(6). In support of that theory, a complaint must allege "sufficient factual matter" that, taken as true, "state[s] a claim for relief [that] is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Plaintiff must establish more than a "sheer possibility that a defendant has acted unlawfully." *Id.* This Court need not accept as true legal conclusions or conclusory factual allegations. *Id.* "[W]hen the allegations in a complaint, however true, could not raise a claim of entitlement to relief, this basic deficiency should be exposed at the point of minimum expenditure of time and money by the parties and the court." *U.S. ex rel. Bennett v. Medtronic, Inc.*, 747 F. Supp. 2d 745, 761 (S.D. Tex. 2010) (quoting *Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007)) (cleaned up).

IV. ARGUMENT

7. The final determination of the IRS Audit Dispute is a dispositive condition precedent to Plaintiff's right to commence and maintain any litigation concerning the amount or validity of Daugherty's Reserved Claim. The Complaint does not allege that a final determination has occurred, nor can it. In fact, the Complaint alleges the exact opposite: that the IRS Audit Dispute is *ongoing*. For this reason alone, the Complaint should be dismissed.

8. To the extent Plaintiff makes any claim of finality—despite not alleging it in the Complaint—that claim is the result of a fundamental misunderstanding of the administrative procedure at the IRS for auditing, assessing, and collecting tax amounts that are allegedly due following a partnership audit. There is no practical or economic effect of the IRS's *proposed* adjustment at the end of an audit beyond just that—*proposing* changes to partnership items subject to challenge by the partners, the courts, and subsequent limitations on assessment and collection.

9. Partnership audit procedures, in this case, are governed by the standards established in the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"). *See* 26 U.S.C. §§ 6221-6234, adopted by TEFRA, Pub. L. No. 97-248, § 402(a). TEFRA governs partnership audits for partnership years beginning after September 3, 1982, and applies generally to partnership tax years from 1983 through 2017 and subsequent tax years are governed by different rules.[6] Determinations at the partnership level are binding upon all direct and indirect partners of the partnership and, in the absence of a partnership-level proceeding, the IRS is bound by the partnership items as reported on the partnership return. *Sente Inv. Club P'Ship of Utah v. Commissioner*, 95 T.C. 243, 247-250 (1990); *Roberts v. Commissioner,* 94 T.C. 853, 862 (1990). The tax matters partner ("TMP"),[7] plays an important role in the audit and in any resulting administrative proceedings,[8] conducts judicial proceedings,[9] and is obligated to keep the partners informed.[10] The IRS has a duty to issue

[6] The Bipartisan Budget Act of 2015 repealed the TEFRA procedures entirely for partnership tax years beginning after December 31, 2017. Bipartisan Budget Act of 2015, Pub. L. No. 114-74§§ 1101(g)(1), 1101(g)(4). All references to Internal Revenue Code (IRC) provisions are TEFRA versions of those IRC provisions enacted on September 3, 1982.

[7] 26 U.S.C. § 6231(a)(7); Treas. Reg. § 301.6231(a)(7)-1.

[8] 26 U.S.C. § 6224(c)(3); Treas. Reg. § 301.6224(c)-1.

[9] 26 U.S.C. § 6226.

[10] 26 U.S.C. § 6223(g); Treas. Reg. § 301.6223(g)-1.

certain notices,[11] and partners have a right to participate in the administrative proceedings unless they waive or fail to exercise their rights.[12]

10. The IRS commences an audit by giving notice to all partners and all partners may participate in the audit, but the primary representative is the Tax Matters Partner ("TMP"). 26 U.S.C. § 6223(a); 26 U.S.C. § 6231(a)(7); Treas. Reg. § 301.6231(a)(7)-1(b)(1). A partnership audit is concluded by the IRS issuing a no-change finding or a Final Partnership Administrative Adjustment ("FPAA"). 26 U.S.C. § 6223(a)(2); Internal Revenue Manual § 8.19.12.3. The IRS is required to mail an FPAA to the TMP, all notice partners, and representatives of notice groups. The mailing of the FPAA to the TMP starts the clock on various procedures that are contingent on issuance of an FPAA. *See e.g., Triangle Investors Ltd. Partners v. Comm'r*, 95 TC 610 (1990). The mailing to the remaining partners must occur within 60 days after the mailing to the TMP. *See Byrd Invs. v. CIR*, 89 TC 1 (1988), aff'd, 853 F2d 928 (11th Cir. 1988) (procedures for mailing to partners other than TMP satisfy due process).

11. The IRS cannot assess tax resulting from adjustments to partnership items until the notice of an FPAA has been mailed, at least 150 days have elapsed after the mailing *and* the FPAA has not been contested. 26 U.S.C. § 6225(a)(1). If the IRS violates the assessment restriction, the assessment can be enjoined. 26 U.S.C. § 6225(b). If a Tax Court petition is filed within 150 days after the FPAA notice, no deficiency attributable to a partnership item may be assessed until the court's decision on the matter becomes final. 26 U.S.C. § 6225(a)(1). Partners who receive an FPAA are allowed to file a petition contesting the FPAA in the Tax Court, a federal district court, or the Court of Federal Claims. 26 U.S.C. § 6226; Internal Revenue Manual § 8.19.12.11.1.

[11] 26 U.S.C. § 6223(a)-(b); Treas. Reg. § 301.6223(b)-1, (e)-1, (e)-2.

[12] IRC § 6224(a), IRC § 6224(b); Treas. Reg. § 301.6224(a)-1, (b)-1.

12. Based on information and belief, Defendant expects that a challenge is most likely to occur in the U.S. Tax Court. In that instance, the Tax Court will employ the same reasoning applied in deficiency cases to a decision in a TEFRA proceeding. *See Cinema '84 v. Commissioner*, 122 T.C. 264 (2004). Any partner can appeal the decision, subject to the usual rules for appeals from the deciding court. 26 U.S.C. §§ 6226(g), 7485(b). Under TEFRA, there is only one appeal to one circuit court. *See* 26 U.S.C. § 7482(b)(1)(A); *Abatti v. Comm'r*, 86 T.C. 1319 (1986), *aff'd*, 859 F.2d 115 (9th Cir. 1988). If no notice of appeal is filed within the applicable period, the decision of the trial court becomes final and unappealable at the end of the appeal period. 26 U.S.C. § 7481(a)(1); *see also Benenson v. United States*, 385 F.2d 26 (2d Cir. 1967); *Richland Knox Mutual Ins. Co. v. Kallen*, 376 F.2d 360 (6th Cir. 1967).

13. If an appeal is filed, the decision becomes final after the appeal is resolved and the time to take any further appeal expires. Once the decision becomes final, the decision cannot be challenged without moving to vacate the court decision. *See* Tax Court Rule 162; *see also Tashjian v. Comm'r*, 320 Fed. App'x. 649 (9th Cir. 2009) (cannot contest partnership item decision in subsequent collection due process case for partner). The finality date is critical for determination of the statute of limitations and the IRS generally has at least one year after the date the decision becomes final to assess the partnership item adjustments. *See* 26 U.S.C. § 6229(d)(2).

14. Here, each and every one of Plaintiff's allegations is premised on speculating what the final outcome of the 2008 Audit will be. The FPAA, once one is issued, is subject to challenge and adjustment by the TMP and other partners and, if challenged, no assessment of any proposed adjustment can occur until a final decision is entered by the courts.. Even at the conclusion of all the court proceedings, which Plaintiff itself estimates will not occur until 2029,[13] the adjustments

[13] *Supra*, note 4.

may still never occur if the IRS does not follow the requirements for assessment within the given statute of limitations. In short, the issuance of an FPAA at this stage—assuming one has actually been issued—is meaningless beyond providing a clear understanding of the IRS position on certain tax return items, and is subject to challenge and potential change by the partners or the courts.

15. Therefore, Plaintiff has failed to allege any facts which give rise to plausible claims for relief against Daugherty. As a result, all claims against Daugherty should be dismissed without prejudice.

V. DISMISSAL SHOULD BE WITHOUT PREJUDICE, AND LEAVE TO AMEND SHOULD BE DENIED

16. Leave to amend is not automatic, but "is within the sound discretion of the district court." *United States ex rel. Doe v. Dow Chem. Co.*, 343 F.3d 325, 329 (5th Cir. 2003) (internal citations omitted). Courts typically afford leave to amend at least once, however, a plaintiff should be denied leave to amend if the court determines that the proposed change is frivolous or advances a claim or defense that is legally insufficient on its face. *U.S. ex rel. Bennett v. Medtronic, Inc.*, 747 F. Supp. 2d 745, 761 (S.D. Tex. 2010); *Ayers v. Johnson*, 247 Fed. Appx. 534, 535 (5th Cir. 2007).

17. As set forth above, Plaintiff's claim is premature and as a result cannot be corrected by an amended pleading. Accordingly, should Plaintiff seek leave to amend, such request would be futile and should be categorically denied.

VI. CONCLUSION

18. For the foregoing reasons, the Court should dismiss all claims against Daugherty because the Complaint does not satisfy the Rule 12(b)(6) pleading requirements as it fails to state a claim upon which relief may be granted. Additionally, the Court should deny leave to amend because any attempt to amend the Complaint at this time would be futile as the IRS Audit Dispute

remains pending and unresolved. Alternatively, the Court should stay this adversary proceeding until the Debtor's IRS Audit Dispute is fully and finally resolved.

Respectfully submitted this 4th day of June 2025.

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 4th day of June 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
CA Bar No. 143717
jpomerantz@pszjlaw.com
John A. Morris
NY Bar No. 2405397
jmorris@pszjlaw.com
Gregory V. Demo
NY Bar No. 5371992
gdemo@pszjlaw.com
Hayley R. Winograd
NY Bar No. 5612569
hwinograd@pszjlaw.com
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWORD PLLC
Melissa S. Hayward
TX Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
TX Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, TX 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

By: /s/ *Andrew K. York*
Andrew K. York

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

ORDER GRANTING DEFENDANT
PATRICK DAUGHERTY'S MOTION TO DISMISS

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Upon the motion (the "**Motion**") of Patrick Daugherty, for the entry of an order (the "Order"): dismissing this adversary proceeding for failure to state a claim upon which relief may be granted pursuant to Fed. R. Civ. P. 12(b)(6) (as incorporated herein by Fed. R. Bankr. P. 7012(b)); and this Court having found that notice of the Motion and opportunity for a hearing on the Motion were appropriate, and no other notice need be provided; and this Court having reviewed the legal and factual bases set forth in the Motion; and this Court having determined that cause exists to **GRANT** the Motion. In light of the foregoing, it is hereby **ORDERED, ADJUDGED, AND DECREED THAT:**

1. This adversary proceeding is hereby dismissed without prejudice for failure to state a claim upon which relief may be granted pursuant Fed. R. Civ. P. 12(b)(6) (as incorporated herein by Fed. R. Bankr. P. 7012(b)).

2. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

3. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

###END OF ORDER###

Submitted by:

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

PD-11

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S (A) REPLY IN SUPPORT OF HIS MOTION TO DISMISS AND (B) RESPONSE TO PLAINTIFF'S CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Defendant Patrick Daugherty ("Daugherty") files this Reply in support of his Motion to Dismiss Plaintiff's Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) (incorporated herein by Fed. R. Bankr. P. 7012(b)) for failure to state a claim upon which relief may be granted, and this Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024.

I. SUMMARY

1. Plaintiff's Objection is a tortured, and ultimately unsuccessful, attempt to avoid the terms of the Settlement Agreement it voluntarily negotiated. It also fails to credibly contest the unambiguous admissions in Plaintiff's Complaint: that the IRS Audit Dispute[2] remains unresolved. In fact, the Objection does not even argue the Complaint's factual allegations plead a cognizable claim for relief.

2. Tellingly, the Objection fails to keep Plaintiff's story straight. At one point Plaintiff admits Daugherty's Reserved Claim is still "unresolved at this time[.]" *See Highland Capital Management, L.P.'s (A) Objection to Partick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief From a Final Order Pursuant to Bankruptcy Rule 9024* [Docket No. 10] (the "Objection") at ¶ 5. In other parts of the Objection, Plaintiff claims the IRS ***may*** have made a final determination. *Id.* at ¶ 2 (stating Plaintiff "believes" the IRS made a final determination); *id.* at ¶ 15 (asserting Plaintiff recently found "information suggesting" the IRS made a final

[2] All capitalized terms used but not herein defined shall have the meanings ascribed to them in the Settlement Agreement at Main Case Docket No. 3089, Daugherty's Motion to Dismiss or Plaintiff's Objection.

determination). In support, Plaintiff relies on its own records to contend the final determination occurred ***three years before*** Plaintiff and Daugherty entered into the Settlement Agreement.

3. Plaintiff's fumbling attempt to characterize the IRS's final determination (or not) of the IRS Audit Dispute is a tacit concession that the Stay Provision of the Settlement Agreement controls. A fact bolstered by Plaintiff's complete failure to answer a simple, logical question: if the IRS had issued a final determination in 2018, then what was the need to reserve the claim in the Settlement Agreement?

4. Realizing its argument lacks a supportable premise, Plaintiff pivots to a Hail Mary: a cross-motion asking the Court to relieve Plaintiff from the Stay Provision in its bargained-for Settlement Agreement.[3] The Court should reject this request for several reasons. The parties clearly contemplated at the time they entered into the Settlement Agreement that final resolution of the IRS Audit Dispute was indeterminate. Plaintiff's failure to negotiate an end-date in the Settlement Agreement is its own fault. Plaintiff also claims the current circumstances were "unforeseen."[4] Mutual mistake, however, is not an "extraordinary circumstance" that justifies Court intervention under Rule 60(b)(6). Most importantly, Plaintiff obtained the benefits of the Stay Provision via multiple tolling agreements that extended Plaintiff's deadline to object to Daugherty's Reserved Claim. Plaintiff is therefore estopped from now trying to eliminate the same

[3] Indeed, supporting the bargained-for nature of the settlement, in seeking court-approval of the Settlement Agreement, Plaintiff stated: "[T]he Settlement agreement was unquestionably negotiated at arm's length. The Terms of the settlement are the result of numerous, ongoing discussions and negotiations between the parties and represent neither party's 'best case scenario.'" [Main Case Docket No. 3088 at ¶ 48].

[4] Plaintiff's claim is problematic given the Court's comments during the parties' November 17, 2020 hearing on Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes [Main Case Docket No. 1281 in Case 19-34054-sgj], where the Court commented with respect to Daugherty's Reserved Claim: "down the road we may get to a point where it's not contingent, the IRS has finished doing what it's going to do, and we may get to a point where we think the result is appropriate." [Main Case Docket No. 1426 in Case 19-34054-sgj at 85:16-19]. While that point in time has yet to come, it is hardly something "unforeseen." [*See also generally id.* at 46:16-48:22].

provision in the Settlement Agreement. Accordingly, Plaintiff's cross-motion should be denied, and the Complaint dismissed.

II. LEGAL STANDARD

5. To survive a motion to dismiss under Rule 12(b)(6), Plaintiff must assert a theory that could entitle it to relief. Fed. R. Civ. P. 12(b)(6). In support of that theory, a complaint must allege "sufficient factual matter" that, taken as true, "state[s] a claim for relief [that] is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Plaintiff must establish more than a "sheer possibility that a defendant has acted unlawfully." *Id.* This Court need not accept as true legal conclusions or conclusory factual allegations. *Id.* "[W]hen the allegations in a complaint, however true, could not raise a claim of entitlement to relief, this basic deficiency should be exposed at the point of minimum expenditure of time and money by the parties and the court." *U.S. ex rel. Bennett v. Medtronic, Inc.*, 747 F. Supp. 2d 745, 761 (S.D. Tex. 2010) (quoting *Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007)) (cleaned up).

III. ARGUMENT

A. The Complaint still fails to allege a plausible claim.

6. Plaintiff first contends that it "recently also found information suggesting that the 'IRS [made] a final determination with respect to the IRS audit dispute.'" Objection at ¶ 15. It points to three documents from Plaintiff's own records that were purportedly sent to Daugherty on or about February 3, 2018. *Id.* at ¶ 16 and Morris Exhibits 2-4. This argument fails for multiple reasons.[5]

[5] The Court also should decline to consider Morris Exhibits 2-4 because they are used in a manner inconsistent with the Complaint's factual allegations. While a plaintiff "has much more flexibility in opposing a Rule 12(b)(6) motion," any elaborations or extrinsic evidence must be consistent with the pleadings. *Kinnie Ma Indiv. Retirement Acct. v. Ascendant Capital, LLC*, Cause No. 1:19-CV-1050-LY, 2021 WL 11962856, at *1 (W.D. Tex. Aug. 25, 2021) (quoting *Geinosky v. City of Chicago*, 675 F.3d 743, 745 n. 1 (7th Cir. 2012)). The Complaint alleges the IRS Audit is not final. Plaintiff attempts to use the Morris Exhibits 2-4 to argue that the exact opposite. Notwithstanding the

7. First, Plaintiff's letter to Daugherty makes clear that the "IRS field examiners" did not reach a "final determination". Rather, they simply "proposed an adjustment" to Plaintiff's 2008 tax return. Morris Exhibit 2. The letter also makes clear that Plaintiff and Daugherty could accept or reject the proposed adjustment — and Plaintiff recommended Daugherty not agree to the proposed adjustments. *Id.* Moreover, the letter states that Plaintiff would "handle the closing conference . . . and appeal the proposed adjustment to the IRS Appeals Office after the conference." *Id.* Nothing in the letter or IRS forms establishes that the IRS had made a "final determination" with respect to the IRS audit dispute.

8. Second, Plaintiff argues the ***February 2018*** letter and attached IRS forms ***suggest*** the IRS reached a final determination. But that argument is belied by the ***November 2021*** Settlement Agreement. The parties expressly provided that Daugherty's Reserved Claim "shall be stayed *until the IRS makes a final determination with respect to the IRS Audit Dispute*." Settlement Agreement at ¶ 9. If the IRS had already made a final determination in February 2018, then there would be no need for Plaintiff and Daugherty to include the Stay Provision in the Settlement Agreement.

9. The parties' effectuation of the Settlement Agreement also acknowledged the IRS audit was not final. On July 27, 2022, the parties entered a Tolling Agreement Extending Claim Objection Deadline. [Main Case Docket No. 4255-60 in Case 19-34054-sgj].[6] The parties

---

contradiction, the Court also has discretion not to consider matters outside the pleadings that are submitted in opposition to a 12(b)(6) motion. *Tremont LLC v. Halliburton Energy Servs., Inc.,* 696 F.Supp.2d 741, 751 (S.D. Tex. 2010).

[6] As Daugherty pointed out in his Motion to Dismiss, the Court may take judicial notice of its own records. *E.g., Biliouris as next friend of Biliouris v. Patman*, 751 Fed. App'x 603, 604 (5th Cir. 2019)("court may take judicial notice of the record in prior related proceedings"); *ITT Rayonier Inc. v. U.S.*, 651 F.2d 343, 345 n.2 (5th Cir. 1981)("court may… take judicial notice of its own records…"). Daugherty respectfully requests the Court take judicial notice of the Tolling Agreement filed by Plaintiff in the Main Case at Docket No. 4255-60 as it considers this Motion to Dismiss.

included recitals in the Tolling Agreement that there was an "absence of a resolution of the IRS Dispute" and "it is unknown when the IRS Dispute may be resolved". *Id.* at 4. Over the next three years the parties entered into three amendments to the Tolling Agreement. None of those amendments changed the characterization of the IRS Audit Dispute as unresolved. [Main Case Docket Nos. 4255-61 through 4255-63 in Case 19-34054-sgj].

10. Finally, the Objection fails to "wade into the thicket of arcane tax regulations" that eviscerate Plaintiff's argument. Objection at ¶ 3. Daugherty's Motion to Dismiss clearly explained how the IRS' proposed adjustment was not a final determination. Motion to Dismiss at ¶¶ 8-13. Plaintiff's intentional decision not to address those arguments is a tacit admission that the detailed explanation of the audit process in Daugherty's response established there was no final determination. The motion to dismiss did not, as Plaintiff claims, present meaningless arcane rules, or a thicket for the Court to wade through, but a clear legal standard that a dispute cannot be final until the allowed judicial review is concluded. These are established standards that both parties were aware of at the time of settlement. Any alleged inconvenience was known and accounted for by the parties during settlement negotiations and the resulting agreement.

11. In sum, the extrinsic evidence attached to Plaintiff's Objection fails to illustrate that the Complaint alleges any facts which give rise to plausible claims for relief against Daugherty. The Complaint and the Objection show Plaintiff filed this adversary proceeding before a final determination in the IRS Audit Dispute. As a result, all claims against Daugherty should be dismissed without prejudice pursuant to the Settlement Agreement.

B. Plaintiff's meritless Rule 60(b)(6) cross-motion should be denied.

i. Plaintiff improperly asks the Court to rewrite the parties' negotiated Settlement Agreement.

12. Rule 60(b)(6) is a "grand reservoir of equitable power" only when its use is necessary "to accomplish justice." *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 401 (5th Cir. 1981). Moreover, a motion for relief from a judgment is generally not favored and should only be granted upon a showing of exceptional circumstances. *United States v. Int'l Bhd. of Teamsters*, 247 F.3d 370, 391 (2nd Cir. 2001). Consistent with these principles, motions to reform or nullify settlements are disfavored precisely because settlements represent the parties' negotiated allocation of risk. *See Cashner v. Freedom Stores, Inc.*, 98 F.3d 572, 580 (10th Cir. 1996) (denying 60(b)(6) motion when "[d]efendants made a free, counseled, deliberate choice whose consequences in hindsight are unfortunate.") (citing *Pelican Prod. Corp. v. Marino*, 893 F.2d 1143, 1147 (10th Cir.1990)). Whatever inconvenience Plaintiff now faces is a direct consequence of a contractual risk it willingly accepted. Rule 60(b)(6) does not permit the Court to rescue a sophisticated party from the predictable results of its own bargain. *Yesh Music v. Lakewood Church*, 727 F.3d 356, 363 (5th Cir. 2013) ("Rule 60(b)(6) relief will not be used to relieve a party from the free, calculated, and deliberate choices he has made."); *S.E.C. v. Conradt*, 309 F.R.D. 186, 187-88 (S.D.N.Y. 2015) (refusing to utilized Rule 60(b)(6) to vacate defendants' settlement agreements that resulted in consent judgments after defendants' guilty pleas in a parallel proceeding were vacated).

13. Here, the Stay Provision was an integral term of a comprehensive, court-approved Settlement Agreement that resolved years-old disputes and provided Daughterty with certainty that he would not be forced to litigate until *after* the IRS Audit Dispute reached a final determination. Settlement Agreement, ¶ 9. Indeed, Plaintiff previously lauded the Settlement

Agreement as fair and reasonable when it sought approval of the same. [*See e.g.*, Main Case Docket No. 3088 at ¶¶ 41-48]. This Court also "found the Settlement Agreement fair and equitable". [Main Case Docket No. 3298 at 2]. Now Plaintiff asks the Court to ignore that finding and write out an essential term of the parties' agreement to avoid the consequence of its bargain.

14. However, the Settlement Agreement's terms and the parties' subsequent tolling agreements establish the parties clearly anticipated the possibility—if not, the likelihood—that the IRS Audit Dispute could drag on for years. Plaintiff could have negotiated a temporal backstop, but it did not. Instead, Plaintiff reserved all defenses while agreeing that "any litigation…shall be stayed" until the IRS reaches a final determination. Settlement Agreement, ¶ 9.

ii. Rule 60(b)(6) should only be utilized in the face of manifest injustice and extraordinary circumstances—not to relieve Plaintiff of its obligations under a court-approved Settlement Agreement.

15. Relief under Rule 60(b)(6) "requires a showing of manifest injustice and extraordinary circumstances." *Yesh Music*, F.3d at 363; *see also Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 864 (1988) (Rule 60(b)(6) should only be applied in "extraordinary circumstances"). "[E]xtraordinary circumstances rarely exist when a party seeks relief from a judgment that resulted from the party's deliberate choices." *Budget Blinds, Inc. v. White*, 536 F.3d 244, 255 (3rd Cir. 2008). It is clear that a party who is simply trying to escape the effects of a bargain it regretted in hindsight has not demonstrated exceptional circumstances sufficient to warrant relief under Rule 60(b)(6). *Coltec Indus., Inc. v. Hobgood*, 280 F.3d 262, 273 (3rd Cir. 2002).

16. Plaintiff claims "no one foresaw" the IRS may require more than five years to make a final determination when the Settlement Agreement was negotiated.[7] Objection at ¶ 5. And now, Plaintiff complains that dissolving the estate may take longer than it anticipated at the time Plaintiff entered into the Settlement Agreement. However, Plaintiff's failure does not amount to an extraordinary circumstance. To the contrary, Plaintiff's arguments show that it is trying to escape the effects of a bargain it now regrets in hindsight.[8] Daugherty should not bear the consequences of Plaintiff's regret,[9] nor should the Court cosign Plaintiff's attempt to circumvent the parties' Settlement Agreement.

iii. Equitable considerations defeat Plaintiff's bid to rewrite a deal from which it has already benefited.

17. Equity runs in Daugherty's favor. After the Court entered the Settlement Order, Plaintiff repeatedly invoked the Settlement Agreement to secure four separate tolling agreements, thereby extending its claim-objection deadline from August 11, 2023, to June 30, 2025. (Main Case Docket Nos. 4255-60 through 4255–63). Plaintiff cannot accept those substantial benefits and now disavow the agreement that enabled them. The doctrine of judicial estoppel prevents a party from "playing fast and loose with the courts" by taking inconsistent positions in successive

---

[7] To the extent Plaintiff now characterizes the Stay Provision as a "mutual mistake" (or even a "unilateral mistake") that contention is legally irrelevant. Fifth Circuit precedent makes clear that "mistake or inadvertence" is covered by subsections (1)–(3) of Rule 60(b), and must be raised within one year. Fed. R. Civ. P. 60(c)(1); *Seven Elves*, 635 F.2d at 401–02; *see also Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 393 (1993) (Rule 60(b)(1) covers mistake, inadvertence, surprise, or excusable neglect, and is subject to a one-year limitation). Plaintiff's motion—filed more than three years after the Settlement Order—comes far too late under those provisions and cannot be bootstrapped into subsection (6).

[8] This is particularly concerning, because Plaintiff previously stated, "the Settlement Agreement should be approved as a rational exercise of the Reorganized Debtor's business judgment made *after due deliberation of the facts and circumstances concerning Daugherty's Claim.*" [*See e.g.*, Main Case Docket No. 3088 at ¶ 48 (emphasis added)].

[9] Notably, at any time, Plaintiff could have negotiated an agreeable amendment to the Settlement Agreement with Daugherty to address its concerns. Instead, it chose to leave Daugherty in the dark and file this improper and meritless Adversary Proceeding in violation of the same.

proceedings. *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001) (judicial estoppel prevents a party from prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase). Having treated the Stay Provision as valid and enforceable for years, Plaintiff is estopped from contending otherwise now—especially since Plaintiff has reaped other substantive benefits under the Settlement Agreement.

18. Moreover, Daugherty relied on the Stay Provision when entering those tolling agreements, to set it aside now would be manifestly prejudicial. In equity, the Court should consider that the current position of the parties is a direct result of their bargaining and refuse to tilt the scale in Plaintiff's favor.

iv. Plaintiff's cross-motion lacks authority and should be denied.

19. Every authority that Plaintiff relies on in its Objection involves either (i) default judgments or (ii) impossibility caused by events wholly outside the parties' contractual framework—not an attempt to rewrite a settlement term chosen by the parties.

20. For example, in *Seven Elves*, relief was granted where defendants never received notice of trial and a $250,000 default judgment was entered. 635 F.2d at 399. Unlike here, there was no negotiated settlement, and the movants had no opportunity to present their case. In *Celtic Marine Corp. v. James C. Justice Companies, Inc.*, 593 F. App'x 300 (5th Cir. 2014), the court merely reduced the post-judgment interest rate because the contract lacked "clear, unambiguous" language. 593 F. App'x 300, 306. To the extent a settlement agreement was involved in the court's 60(b)(6) analysis, the ruling enforced, rather than voided, the settlement agreement. *Id.* at 302. In *Lindy Investments III v. Shakertown 1992, Inc.*, 360 F. App'x 510 (5th Cir. 2010), the district court vacated a decade-old money judgment where the plaintiffs' own post-judgment conduct—continuing to use allegedly defective shingles—made enforcement inequitable. 360 F. App'x 510.

Again, no settlement existed, and relief merely restored the pre-judgment status quo. In *In re Strudel Holdings LLC*, 656 B.R. 404 (Bankr. S.D. Tex. 2024), the court extended a real-estate closing deadline because an unforeseen cyberattack on the escrow agent made compliance impossible. 656 B.R. 404. Here, by contrast, the Stay Provision already contemplates a drawn-out IRS process; Plaintiff's "difficulty" is neither unforeseen nor unavoidable.

21. Plaintiff cites these cases to support the general proposition that Rule 60(b)(6) "should be liberally construed" and that courts have broad discretion to grant relief under that provision to accomplish justice. *Celtic Marine Corp*, 593 F. App'x at 303. But none of these cases authorize a court to excise a bargained-for stay clause simply because one party regrets the timing implication years later. On the contrary, they reinforce that Rule 60(b)(6) is available only when an unanticipated event renders continued enforcement of a judgement manifestly unjust—an entirely different scenario from the one presented here. *See Seven Elves*, 635 F.2d at 402 (Rule 60(b) should be liberally construed to do substantial justice, but not to disturb the finality of judgments absent compelling circumstances).

22. In sum, the Stay Provision was a material term of a negotiated settlement, its continued enforcement is neither manifestly unjust nor extraordinary. For the foregoing reasons, the Court should hold Plaintiff to its bargain and dismiss the adversary proceeding, or, at a minimum, stay it until the IRS Audit Dispute is fully and finally resolved, exactly as the Settlement Agreement requires.

IV. DISMISSAL SHOULD BE WITHOUT PREJUDICE

23. Plaintiff's tertiary requested relief is for dismissal without prejudice, subject to (a) a further extension of the claim objection deadline through February 1, 2026, and (b) Plaintiff's right to re-file the Complaint between January 1 and 31, 2026 together with a renewed Rule

60(b)(6) motion. Objection at ¶ 25. Daugherty agrees the dismissal should be without prejudice. Daugherty also does not oppose an extension of the claim objection deadline to February 1, 2026. However, Daugherty opposes Plaintiff's request for the right to re-file in January 2026 to the extent that Plaintiff is seeking a ruling that it may file before the IRS makes a final determination. The more appropriate procedure would be for Plaintiff to seek a further extension of the claim objection deadline by February 1, 2026, if necessary.

V. CONCLUSION

24. For the foregoing reasons, the Court should dismiss all claims against Daugherty because the Complaint does not satisfy the Rule 12(b)(6) pleading requirements as it fails to state a claim upon which relief may be granted. Alternatively, the Court should stay this adversary proceeding until the Debtor's IRS Audit Dispute is fully and finally resolved.

Respectfully submitted this 8th day of August 2025.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
draysehll@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 8th day of August 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
jpomerantz@pszjlaw.com
John A. Morris
jmorris@pszjlaw.com
Gregory V. Demo
gdemo@pszjlaw.com
Hayley R. Winograd
hwinograd@pszjlaw.com
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

HAYWORD PLLC
Melissa S. Hayward
MHayward@HaywardFirm.com
Zachery Z. Annable
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Suite 106
Dallas, Texas 75231

Counsel for Highland Capital Management, L.P.

/s/ Andrew K. York
ANDREW K. YORK

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

In Re: Highland Capital Management, L.P

§

§ Case No 19−34054−SGJ-11

Patrick Daugherty - Appellant §

25-03055

vs §

3:26-CV-02664-S

Highland Capital Management, L.P., et al - Appellee

§

§

[138] Judgment. Entered on 8/7/2026

APPELLANT RECORD

VOLUME 3

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055-bwo
Defendant.	§	
	§	INDEX

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the July 24, 2026 *Judgment and Memorandum Opinion* [Docket Nos. 138, 139 in Adversary No. 25-03055-bwo]. *See Notice of Appeal* [Docket No. 142 in Adversary No. 25-03055-bwo].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court erred in disallowing Daugherty's Reserved Claim based on the Employment Agreement's termination provisions, when the Court itself found the 2009 Compensation Statement was incorporated into the Employment Agreement and resolved its ambiguity in Daugherty's favor, concluding that Highland Capital Management, L.P. ("Highland") intended to compensate Daugherty for any material deviation in his 2008 tax refund.

2. Whether the Bankruptcy Court erred in applying the "no further liability or obligation" language of Sections 4.5 and 4.6 of the Employment Agreement to extinguish Daugherty's compensation entitlement under the 2009 Compensation Statement, when that language pertains to severance contingent upon execution of a separation agreement and not to earned compensation that accrued during Daugherty's active employment.

3. Whether the Bankruptcy Court erred in holding that James Dondero's oral promises to cover Daugherty's contingent tax liability were unenforceable under Texas's statute of frauds, Tex. Bus. & Com. Code § 26.01, when Highland had a main purpose of its own in making the promise and when the Court failed to consider Daugherty's continued employment and forbearance as adequate consideration.

4. Whether the Bankruptcy Court erred in denying Daugherty's counterclaim for specific performance of the Settlement Agreement's books-and-records provision by construing that provision through the statutory categories of 6 Del. C. § 18-305(a), rather than by the plain meaning of the negotiated Settlement Agreement requiring Highland to "transfer its *interests* in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims," including "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system."

5. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of

the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

6. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, inter alia, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

Vol. 1
000001
000008

1. Notice of Appeal for Adversary No. 25-03055-bwo [Docket No. 142].

2. The Judgment Order or Decree appealed from: July 24, 2026 – Judgment [Docket No. 138].

000010

3. July 24, 2026 – Memorandum of Opinion [Docket No. 139].

000035

4. Docket Sheet for Adversary Case No. 25-03055-bwo kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 25-03055-bwo:

Vol. 2

Filing Date	Docket No.	Description
05/02/2025	1	(16 pgs; 3 docs) Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/05/2025	2	(4 pgs; 2 docs) Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3	(2 pgs) Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre-trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us-

000053
000064
000073

Case 3:25-cv-02664-S Document 12-3 Filed 10/27/26 Page 5 of 329 PageID 608

Vol. 2

		courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025	4	(4 pgs) Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025	5	(13 pgs; 2 docs) Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025	6	(5 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025	7	(10 pgs) Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025	8	(12 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025	9	(13 pgs; 2 docs) Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025	10	(13 pgs; 2 docs) Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025	11	(43 pgs; 5 docs) Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

000076
000079
000092
000097
000107
000119
000132
000145

Vol. 2

07/28/2025 000188	12	(4 pgs) Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025 000192	13	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025 000195	14	(6 pgs; 2 docs) Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025 000201	15	(13 pgs) Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025 000214	16	(5 pgs) Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)

Vol. 2

08/18/2025 000219	17	(3 pgs) Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025 000222	18	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025 000225	19	(225 pgs; 12 docs) Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)

Vol. 3

09/04/2025 000450	20	(48 pgs; 2 docs) Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/05/2025 000498	23	(3 pgs) Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025 000501	24	(5 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)

Case 3:25-cv-02584-S Document 12-3 Filed 10/27/25 Page 8 of 317 PageID 611

09/19/2025	25	(9 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
09/23/2025	27	(13 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
09/23/2025	28	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
09/23/2025	30	(6 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02584-E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
09/25/2025	31	(7 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
09/25/2025	32	(4 pgs) BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
09/26/2025	33	(44 pgs; 2 docs) Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
09/29/2025	34	(1 pg) Request for Transcript regarding a hearing held on 9/4/2025. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

vol. 3

09/30/2025	35	(36 pgs) Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025	36	(6 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025	37	(14 pgs) Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025	38	(11 pgs) Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025	39	(45 pgs; 2 docs) Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)

000592
000628
000634
000648
000659

Vol. 3

000704	10/03/2025	40	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
000707	10/03/2025	41	(6 pgs) Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
000713	10/04/2025	42	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
000729	10/04/2025	43	(13 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)

Vol 4

000742	10/06/2025	44	(29 pgs) Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
000771	10/09/2025	45	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
000774	10/09/2025	46	(3 pgs) Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Morris, John)
000777	10/09/2025	47	(3 pgs) Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
000780	10/09/2025	48	(3 pgs) Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Demo, Gregory)
000783	10/13/2025	49	(9 pgs) Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related

		documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50	(1 pg) Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	51	(6 pgs) Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53	(1 pg) Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25-cv-02584-E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54	(1 pg) Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25-cv-02584-E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55	(3 pgs) Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56	(8 pgs) Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57	(7 pgs) DISTRICT COURT Stipulation concerning supplement to record on appeal re: 3:25-cv-02584-E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of

Vol 4

		issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58	ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25-03055, effective immediately. The Bankruptcy Clerk of Court will re-assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025		Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59	(11 pgs) Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60	(14 pgs; 2 docs) Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61	(156 pgs; 7 docs) Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62	(3 pgs) Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).

000819

000830

000844

Vol. 5

001000

Vol 5

12/29/2025 001003	63	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
12/30/2025 001006	64	(19 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/30/2025 001025	65	(3 pgs) Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/30/2025 001028	66	(14 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/31/2025 001042	67	(14 pgs) Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
01/02/2026 001056	68	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
01/05/2026 001072	69	(12 pgs) Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
01/05/2026 001084	70	(10 pgs; 2 docs) Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
01/08/2026 001094	71	(10 pgs) Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion*

Case 3:26-cv-02664-S Document 1-3 Filed 10/27/26 Page 14 of 329 PageID 617

Vol 5		*to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
01/12/2026 001104	72	(4 pgs) Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff

Vol. 5

		Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026	73	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/15/2026	74	(2 pgs) Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)
01/17/2026	76	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
01/23/2026	77	(16 pgs) Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
01/25/2026	78	(18 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
01/26/2026	79	(13 pgs) Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
01/26/2026	80	(13 pgs) Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
01/28/2026	81	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman

001108
001111
001113
001117
001133
001151
001164
001179

Vol 5

		Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026	82	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/09/2026	84	(4 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026	85	(7 pgs) Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026	86	(9 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026	87	(3 pgs) Notice to take deposition of T.J. Liles-Tims filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
02/27/2026	88	(2 pgs) Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026	89	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)

001192
001207
001211
001218
001227
001230
001232

VOTS.

03/10/2026 001236	91	(3 pgs) Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026 001239	93	(5 pgs) Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026 001244	94	(8 pgs) Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026 001252	95	(3 pgs) Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026 001255	96	(10 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)
04/02/2026 001265	97	(8 pgs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)

Vol. 5

001273 04/02/2026	98	(8 pgs) Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
001281 04/08/2026	99	(9 pgs) Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001290 04/10/2026	100	(28 pgs) Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
001318 04/13/2026	101	(28 pgs) Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
001346 04/13/2026	102	(21 pgs) Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
001367 04/14/2026	103	(8 pgs) Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
001375 04/14/2026	104	(8 pgs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
001383 04/15/2026	105	(1782 pgs; 95 docs) Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-01 # 2 Exhibit PD-02 # 3 Exhibit PD-03 # 4 Exhibit PD-04 # 5 Exhibit PD-05 # 6 Exhibit PD-06 # 7 Exhibit PD-07 # 8 List of 20 Largest Creditors PD-08 # 9 Exhibit PD-09 # 10 Exhibit PD-10 # 11 Exhibit PD-11 # 12 Exhibit PD-12 # 13 Exhibit PD-13 # 14 Exhibit PD-14 # 15 Exhibit PD-16 # 16 Exhibit PD-16 # 17 List of 20 Largest Creditors PD-17 # 18 Exhibit PD-18 # 19 Exhibit PD-19 # 20 Exhibit PD-20 # 21 Exhibit PD-21 # 22 Exhibit PD-22 # 23 Exhibit PD-23 # 24 Exhibit PD-24 # 25 Exhibit PD-25 # 26 Exhibit PD-26 # 27 Exhibit PD-27 # 28 Exhibit PD-28 # 29 Exhibit PD-29 # 30 Exhibit PD-30 # 31 Exhibit PD-31 # 32 Exhibit PD-32 # 33 Exhibit PD-33 # 34 Exhibit PD-34 # 35 Exhibit PD-35 # 36 Exhibit PD-36 # 37 Exhibit PD-37 # 38 List of 20 Largest Creditors PD-38 # 39 List of 20 Largest Creditors PD-39 # 40 Exhibit PD-40 # 41 List of 20 Largest Creditors PD-41 # 42 Exhibit PD-42 # 43 Exhibit PD-43 # 44 Exhibit PD-44 # 45 Exhibit PD-45 # 46 Exhibit PD-46 # 47 Exhibit PD-47 # 48 Exhibit PD-48 # 49 Exhibit PD-49 # 50 Exhibit PD-50 # 51 Exhibit PD-51 # 52 Exhibit PD-52 # 53 Exhibit PD-53 # 54 Exhibit PD-54

		# 55 Exhibit PD-55 # 56 Exhibit PD-56 # 57 Exhibit PD-57 # 58 Exhibit PD-58 # 59 Exhibit PD-59 # 60 Exhibit PD-60 # 61 Exhibit PD-61 # 62 Exhibit PD-62 # 63 Exhibit PD-63 # 64 Exhibit PD-64 # 65 Exhibit PD-65 # 66 Exhibit PD-66 # 67 Exhibit PD-67 # 68 Exhibit PD-68 # 69 Exhibit PD-69 # 70 Exhibit PD-70 # 71 Exhibit PD-71 # 72 Exhibit PD-72 # 73 Exhibit PD-73 # 74 Exhibit PD-74 # 75 Exhibit PD-75 # 76 Exhibit PD-76 # 77 Exhibit PD-77 # 78 Exhibit PD-78 # 79 Exhibit PD-79 # 80 Exhibit PD-80 # 81 Exhibit PD-81 # 82 Exhibit PD-82 # 83 Exhibit PD-83 # 84 Exhibit PD-84 # 85 Exhibit PD-85 # 86 Exhibit PD-86 # 87 Exhibit PD-87 # 88 Exhibit PD-88 # 89 Exhibit PD-89 # 90 Exhibit PD-90 # 91 Exhibit PD-91 # 92 Exhibit PD-92 # 93 Exhibit PD-93 # 94 Exhibit PD-94) (York, Andrew)
04/15/2026	106	(11 pgs) Joint Motion to file document under seal. *Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (York, Andrew)
04/15/2026	107	(696 pgs; 66 docs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
04/15/2026	108	(5 pgs) Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
04/15/2026	109	SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital

Vol. 7

		Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	110	SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	111	SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	112	SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	113	SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	114	SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	115	SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	116	SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)

04/15/2026	117	SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118	SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119	SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120	SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121	SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122	SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123	SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124	(30 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)101 Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff

		Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	126	(64 pgs; 5 docs) Support/supplemental document *Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-95 # 2 Exhibit PD-96 # 3 Exhibit PD-97 # 4 Exhibit PD-98) (York, Andrew)
04/16/2026	127	(3 pgs) Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128	(15 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129	(7 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130	(9 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	132	(1 pg) Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133	(1 pg) Request for Transcript regarding a hearing held on 4/17/2026. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

Vol. 8	05/18/2026	135	(327 pgs) Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken under advisement; each side to file proposed Findings of Fact and Conclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
002220			
Vol. 9	06/05/2026	136	(47 pgs) Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
002555			
002602	06/05/2026	137	(19 pgs) Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
002621	07/24/2026	138	(2 pgs) Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
002623	07/24/2026	139	(25 pgs) Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
002648	07/26/2026	140	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002652	07/26/2026	141	(27 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002679	08/07/2026	142	(7 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
002686	08/11/2026	144	(9 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation

		due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146	(4 pgs) DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26-cv-02664-S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147	(4 pgs) BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver of, any and all rights, remedies, challenges and objections.

Respectfully submitted this 2nd day of September, 2026,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of September 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Jordan A. Kroop (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

1 Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S WITNESS AND EXHIBIT LIST WITH RESPECT TO HEARING TO BE HELD ON SEPTEMBER 4, 2025

Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor" as applicable) in the above-captioned chapter 11 case (the "Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), by and through its undersigned counsel, submits the following witness and exhibit list with respect to *Patrick Daugherty's Motion to Dismiss* [Adv. Docket No. 5] and *Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket No. 10], which the Court has set for hearing at 9:30 a.m. (Central Time) on September 4, 2025 (the "Hearing") in the Adversary Proceeding.

A. Witnesses:

1. Any witness identified by or called by any other party; and

2. Any witness necessary for rebuttal.

B. Exhibits:

Number	Exhibit	Offered	Admitted
1.	Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 [Adv. Docket No. 11]		
2.	Any document entered or filed in the Debtor's chapter 11 bankruptcy case, including any exhibits thereto		
3.	All exhibits necessary for impeachment and/or rebuttal purposes		
4.	All exhibits identified by or offered by any other party at the Hearing		

Dated: September 4, 2025.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on September 4, 2025, a true and correct copy of the foregoing document was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this case.

/s/ Zachery Z. Annable
Zachery Z. Annable

EXHIBIT 1

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

1934054250718000000000007
000455

DECLARATION OF JOHN A. MORRIS IN SUPPORT OF HIGHLAND CAPITAL MANAGEMENT, L.P.'S (A) OBJECTION TO PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

I, John A. Morris, pursuant to 28 U.S.C. § 1746, under penalty of perjury, declare as follows:

1. I am an attorney in the law firm of Pachulski, Stang, Ziehl & Jones LLP, counsel to Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above-captioned chapter 11 case. I submit this Declaration in support of *Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* (the "Objection" or the "Cross Motion," as the case may be) being filed contemporaneously with this Declaration. This Declaration is based on my personal knowledge and review of the documents listed below.

2. Attached hereto as **Exhibit 1** is a true and correct copy of that certain *Settlement Agreement* (the "Settlement Agreement") by and between Highland and Patrick Daugherty ("Daugherty"), dated November 22, 2021.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the transmittal letter dated February 3, 2018, regarding the IRS' proposed tax adjustments for the 2008 tax year (the "Audit Letter").

4. Attached hereto as **Exhibit 3** is a true and correct copy of IRS Form 886-Z (only as it pertains to Daugherty) that was attached to the Audit Letter.

5. Attached hereto as **Exhibit 4** is a true and correct copy of IRS Form 870-PT pertaining to Daugherty that was also attached to the Audit Letter.

Dated: July 18, 2025

/s/ John A. Morris
John A. Morris

EXHIBIT 1

Final Execution Copy

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement") is made and entered into by and between (i) Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), and (ii) Patrick Hagaman Daugherty ("Daugherty" and together with HCMLP, the "Parties," and individually as a "Party"). This Settlement provides for the treatment of certain claims asserted by Daugherty against the Debtor, and for the Parties to take certain other specified actions in settlement thereof.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, the Debtor's chapter 11 case (the "Bankruptcy") is pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, on February 2 and 3, 2021, the Court conducted a confirmation hearing with respect to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) [Docket No. 1808] (the "Plan");

WHEREAS, on February 8, 2021, the Court rendered an opinion from the bench in which it confirmed the Plan [Docket No. 1924];

WHEREAS, on February 22, 2021, the Court issued an order confirming the Plan [Docket No. 1943];

WHEREAS, on August 11, 2021, the Effective Date (as defined in the Plan) occurred [Docket No. 2700];

WHEREAS, Daugherty is a former employee and limited partner of the Debtor and has

served in other positions with affiliates and former affiliates of the Debtor;

WHEREAS, at the time of his resignation, Daugherty owned 19.1% of the preferred units of Highland Employee Retention Assets LLC ("HERA"), an employee deferred compensation vehicle managed by the Debtor and Highland ERA Management, LLC ("ERA") and contends that he owned or had the right to own all of the preferred units of HERA;

WHEREAS, prior to his resignation from HCMLP, Daugherty was awarded units of HERA, which vehicle owned interests in Restoration Capital Partners, LP ("RCP"), an HCMLP managed private equity fund, and other investments;

WHEREAS, in April 2012, the Debtor commenced an action against Daugherty in Texas state court (the "Texas Action"), and Daugherty subsequently asserted counterclaims for breach of contract and defamation, and third-party claims against HERA and others;

WHEREAS, after a three-week trial, the jury returned a verdict partially in favor of the Debtor, but Daugherty prevailed on his claims against the Debtor and James Dondero ("Dondero") for defamation with malice and a third-party claim against HERA and was awarded damages of $2.6 million against HERA, plus prejudgment and post-judgment interest at 5% (the "HERA Judgment");[1]

WHEREAS, in July 2017, after being unable to collect on the HERA Judgment, Daugherty commenced an action against the Debtor, Dondero, HERA, and ERA Management in the Delaware Chancery Court (the "Delaware Court"), in a case captioned *Daugherty v. Highland Capital Management, L.P., et al.*, C.A. No. 2017-0488-MTZ, for fraudulent transfer, promissory estoppel, unjust enrichment, indemnification, and fees on fees (the "Highland Delaware Case");

[1] The Debtor prevailed on its claims against Mr. Daugherty for breach of contract and breach of fiduciary duty for non-monetary damages and obtained an award of $2.8 million in attorney's fees. The HERA Judgment was affirmed on appeal on December 1, 2016.

WHEREAS, the Delaware Court in the Highland Delaware Case (i) found that the Dondero-related defendants improperly withheld dozens of documents in discovery on privilege grounds, and (ii) ruled that there was "a reasonable basis to believe that a fraud has been perpetrated" such that the Delaware Court applied the "crime-fraud exception" to the attorney-client privilege assertion, and such rulings have not been overturned;

WHEREAS, Daugherty asserts that such withholding of documents and the failure to search defendants' and their employees personal electronic devices for stored documents and texts as well as other emails and domain names such as sasmgt.com and gmail.com which were in their possession and control and to provide required discovery injured him by undermining his attempts to build an evidentiary record to support his claims against the Debtor and the other defendants in the Highland Delaware Case;

WHEREAS, on October 14, 2019, the Highland Delaware Case proceeded to trial and two days later, on October 16, 2019, before the completion of the trial and before the Delaware Court ruled on Daugherty's and the Debtor's cross-motions for summary judgment regarding indemnification and fees on fees, the Debtor filed for bankruptcy;

WHEREAS, on December 1, 2019, Daugherty filed a separate lawsuit in the Delaware Court, captioned *Daugherty v. Dondero, et al.*, C.A. No. 2019-0956-MTZ, against Dondero, HERA, ERA, Hunton Andrews Kurth LLP ("Andrews Kurth"), Marc Katz ("Katz"), Michael Hurst ("Hurst"), the Debtor's Chief Compliance Officer, the Debtor's then in-house counsel (Isaac Leventon ("Leventon")), and the Debtor's then general counsel (Scott Ellington ("Ellington")), for conspiracy to commit fraud, among other claims (the "HERA Delaware Case" and together with the Highland Delaware Case, the "Delaware Cases");

WHEREAS, on April 1, 2020, Daugherty filed a general, unsecured, non-priority claim

against the Debtor in the amount of at "least $37,483,876.59," and such claim was denoted by the Debtor's claims agent as Proof of Claim No. 67 ("Proof of Claim No. 67");

WHEREAS, on April 6, 2020, Daugherty filed a general, unsecured, non-priority claim against the Debtor in the amount of at "least $37,482,876.62" that superseded Proof of Claim No. 67 and that was denoted by the Debtor's claims agent as Proof of Claim No. 77 ("Proof of Claim No. 77");

WHEREAS, on August 31, 2020, the Debtor commenced an adversary proceeding against Daugherty by filing a complaint (the "Complaint") in which the Debtor: (1) objected to Proof of Claim No. 77 on various grounds (the "Claim Objection"), and (2) asserted a cause of action for the subordination of part of Daugherty's claim pursuant to section 510(b) of the Bankruptcy Code. Adv. Proc. No. 20-03107 (the "Adv. Proc.") [Adv. Docket No. 1] (the "Adversary Proceeding");

WHEREAS, on September 29, 2020, Daugherty filed his answer to the Complaint [Adv. Docket No. 8] (the "Answer");

WHEREAS, on September 24, 2020, Daugherty filed his *Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay* [Docket No. 1099] (the "Stay Motion") pursuant to which he sought to sever the Debtor from the Highland Delaware Case and then consolidate the remaining claims in the Highland Delaware Case into the HERA Delaware Case and proceed with one case against the non-Debtor parties;[2]

WHEREAS, on October 23, 2020, Daugherty filed a motion seeking leave to amend his Proof of Claim No. 77 [Docket No. 1280] (the "POC Amendment Motion"). The amended proof

[2] On October 8, 2020, the Debtor commenced a second adversary proceeding against Daugherty (the "Second Adversary Proceeding"), seeking to enjoin him from prosecuting the Delaware Cases. Adv. Proc. 20-03128 ("2d Adv. Proc.") [2d Adv. Proc. Docket No. 1]. On January 29, 2021, the parties filed a Settlement that resolved the Second Adversary Proceeding, and the Second Adversary Proceeding was subsequently dismissed with prejudice. [2d Adv. Proc. Docket No. 12].

of claim attached to the POC Amendment Motion increased Daugherty's general, unsecured, non-priority claim against the Debtor to the amount of at "least $40,410,819.42" and sought to supersede Proof of Claim No. 67 and Proof of Claim No. 77;

WHEREAS, on October 23, 2020, Daugherty filed his *Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Motion*, seeking for his Claim to be temporarily allowed for voting purposes in this amount of $40,410,819.42 [Docket No. 1281] (the "3018 Motion");

WHEREAS, on November 3, 2020, the Court granted the Stay Motion [Docket No. 1327];

WHEREAS, the Debtor opposed the 3018 Motion, and after conducting an evidentiary hearing for the limited purpose of determining the 3018 Motion, the Court entered an order temporarily allowing Daugherty's Claim only for voting purposes in the amount of $9,134,019 [Docket No. 1474];

WHEREAS, on December 10, 2020, the Court entered an order [Docket No. 1533] granting the POC Amendment Motion, and Daugherty was permitted to file an amendment to his proof of claim. On December 23, 2020, Daugherty filed an amended proof of claim, designated by the Debtor's claim agent as Proof of Claim No. 205 ("Proof of Claim No. 205" or the "Daugherty Claim"). Proof of Claim No. 205 superseded Proof of Claim No. 77 and increased the amount of the Daugherty's Claim to $40,710,819.42;

WHEREAS, on November 30, 2020, Daugherty filed his Motion to Lift the Automatic Stay (the "Lift Stay Motion") [Docket No. 1491] seeking to lift the automatic stay to allow him to finish his trial in the Delaware Court and liquidate his claims. The Debtor opposed the Lift Stay Motion, and after a hearing was held on December 17, 2020, the Court denied the relief requested in the Lift Stay Motion [Docket No. 1612];

WHEREAS, except with respect to the Reserved Claim (as defined below), the Parties have agreed to settle and resolve all claims and disputes between them and their respective current affiliates, managed entities, and employees, including the Daugherty Claim, on the terms set forth in this Settlement:

AGREEMENT

NOW, THEREFORE, after good-faith, arms-length negotiations, and in consideration of the foregoing, it is hereby stipulated and agreed that:

1. Allowed Claims: In full satisfaction of the entirety of the Daugherty Claim against the Debtor and HCMLP Released Parties (defined below), excluding the Reserved Claim, Daugherty shall receive (a) an allowed general unsecured Class 8 claim in the amount of $8,250,000; (b) an allowed subordinated general unsecured Class 9 claim in the amount of $3,750,000; and (c) a one-time lump sum cash payment in the amount of $750,000 to be paid within 5 business days of Bankruptcy Court approval of this Settlement Agreement.

2. Recovery: The Debtor makes no representation or warranty as to the recovery on Class 8 or Class 9 claims under the Plan.

3. Observation Access: As soon as practicable following entry of an order of the Bankruptcy Court approving this Settlement, HCMLP shall use reasonable efforts to petition the Claimant Trust Oversight Board[3] to permit Daugherty to have access as an observer to meetings of the Claimant Trust Oversight Board, subject to policies, procedures, and agreements applicable to other observers of the Claimant Trust Oversight Board, including policies, procedures, and agreements related to confidentiality and common interest. Whether Daugherty will be granted observer access and any continuing observer access is and will remain at the sole discretion of the

[3] The Claimant Trust Oversight Board refers to the Oversight Board as defined in the August 11, 2021 Highland Claimant Trust Agreement establishing the Claimant Trust, as defined therein.

Claimant Trust Oversight Board.

4. RCP Track Record: HCMLP shall use reasonable efforts to provide Daugherty with data constituting the investment performance track record of RCP during Daugherty's tenure at HCMLP. Daugherty shall not be entitled to any compensation with respect to the performance of RCP. HCMLP makes no representations or warranties regarding such data and takes no responsibility with respect to the use of such data for any purposes.

5. Daugherty Releases: Except as specifically provided in this paragraph 5, and to the maximum extent permitted by applicable law, the Debtor, on behalf of itself and each of the HCMLP Entities and HCMLP Parties (as those terms are defined in paragraph 6 below), hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue Daugherty, his successors, affiliates, and assigns, (and in each such category to include their respective advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, and designees) (collectively, the "Daugherty Additional Release Parties" and together with Daugherty, the "Daugherty Released Parties"), in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, or the Delaware Cases, all existing as of the date hereof (collectively, the "HCMLP Released Claims"); provided, however, that such release shall not

apply with respect to any and all defenses that HCMLP or the HCMLP Entities may have to the Reserved Claim or the Reserve Motion (as those terms are defined herein) or Daugherty's obligations under this Settlement. For the avoidance of doubt, the HCMLP Released Claims include all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

6. HCMLP Releases: Except as specifically provided in this paragraph 6, and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Released Parties, hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (a)(i) HCMLP; (ii) Strand Advisors Inc.; (iii) the Claimant Trust; (iv) the Claimant Trust Oversight Board; (v) the Highland Litigation Sub-Trust; (vi) the Highland Indemnity Trust; (vii) any entity of which greater than fifty percent of the voting ownership is held directly or indirectly by HCMLP as of the date hereof and any entity otherwise directly or indirectly controlled by HCMLP as of the date hereof,; and (viii) any entity managed by either HCMLP or a direct or indirect subsidiary of HCMLP, including Highland Restoration Capital Partners, L.P., Highland Restoration Capital Partners Offshore, L.P., Highland Restoration Capital Master, L.P. (and all of their respective general partners, feeder funds, managers, and affiliates) (the foregoing (a)(i) through (a)(viii) the "HCMLP Entities"), and (b) with respect to each such HCMLP Entity, such HCMLP Entity's respective current (meaning employed in their respective roles as of the date hereof) advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders (but not the shareholders of Strand Advisors Inc.), agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns, except as expressly set forth below (the "HCMLP Parties," and together with the

HCMLP Entities, the "HCMLP Released Parties"),[4] in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, or the Highland Delaware Case (collectively, the "Daugherty Released Claims"); provided, however, that such release shall not apply with respect to the Reserved Claim or the Reserve Motion (as those terms are defined in paragraph 9 below) or HCMLP's obligations under this Settlement. This release expressly applies to all current employees of HCMLP as the Reorganized Debtor (as defined in the Plan), in their capacities as such. For the avoidance of doubt, the Daugherty Released Claims includes all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

7. Reservation of Daugherty Rights: Notwithstanding anything contained herein to the contrary, the term HCMLP Released Parties shall not include (a) NexPoint Advisors, L.P. (or any of its subsidiaries and employees, advisors, or agents), (b) the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and any of their respective employees, advisors, or agents), (c) NexBank, SSB (or any of its subsidiaries, employees, advisors, or agents), (d) James Dondero or any trust in which Dondero or any of his family members are a trustee or beneficiary (or any trustee acting for such trust), including but not limited to Hunter

[4] The Daugherty Additional Released Parties and the HCMLP Released Parties are collectively referred to as the "Additional Released Parties."

Mountain Investment Trust, The Get Good Trust, Dugaboy Investment Trust, SLHC Investment Trust, (e) HERA (subject to paragraph 8 below), (f) ERA (subject to paragraph 8 below), (g) Grant Scott, (h) Mark Okada and any trust in which Mark Okada or any of his family members are a beneficiary (or any trustee acting for such trust in their respective capacities), (i) Ellington, (j) Leventon, (k) Katz, (l) Hurst, (m) Andrews Kurth, or (m) any other former employee (as of the date hereof) of the HCMLP Released Parties.

8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

10. Current HCMLP Employees: The HCMLP Parties set forth on **Appendix A** hereto are currently employed by the Debtor are HCMLP Released Parties. By executing a copy of this Settlement and delivering it to Daugherty, each of the persons on Appendix A agrees not to sue, attempt to sue, or threaten or work with or assist any entity or person to sue, attempt to sue, or threaten any Daugherty Released Party on or in connection with any claim or cause of action arising prior to the date of this Settlement.

11. Dismissal and Motions in Other Actions. Within ten business days after approval of this Settlement by the Bankruptcy Court, the Parties shall take all steps necessary (a) to dismiss with prejudice (i) the Highland Delaware Case, as against the Debtor and any HCMLP Released Party, and (ii) the HERA Delaware Case, as against every HCMLP Released Party, (b) to file an agreed motion and proposed order to partially vacate the final judgment entered against Daugherty

in the Texas Action, (c) withdraw HCMLP's objection to the Daugherty motion to recuse in the Texas Action, and (d) to dismiss the Adversary Proceeding with prejudice. The parties shall file the foregoing motions and withdrawals substantially in the form of the documents annexed hereto as **Exhibit B**.

12. Additional Third Party Claims Discovery: The Debtor (a) shall accept service of any subpoenas via email served by Daugherty in connection with the Delaware Cases on behalf of itself, the HCMLP Entities, the HCMLP Parties (but only in their capacity as employees of HCMLP); and (b) acknowledge and consent to the jurisdiction of the Delaware Chancery Court for purposes of enforcing any such subpoenas, subject in all respects to the rights that the HCMLP Entities and HCMLP Parties to defend the requested production, if any.

13. Settlement of Third Party Claims: Daugherty shall not settle any claims or causes of action against any current or former director, officer, employee, agent or representative of HCMLP or Strand Advisors Inc. (collectively, the "Potentially Indemnified Parties") to the extent such claims have been brought or could have been brought against any Potentially Indemnified Parties, if any such settlement designates, defines or describes the settled claims as arising out of or relating to simple negligence or as having otherwise been within the scope of employment of the Potentially Indemnified Party.

14. Claims Register: As soon as practicable after the Settlement Effective Date, HCMLP shall instruct the claims agent in the Debtor's chapter 11 case to adjust the claims register in accordance with this Settlement.

15. Daugherty Representations: Daugherty represents and warrants to each of the HCMLP Released Parties that (a) he has full authority to release the Daugherty Released Claims and has not sold, transferred, or assigned any Daugherty Released Claim to any other person or

entity and that (b) no person or entity other than Daugherty has been, is, or will be authorized to bring, pursue, or enforce any Daugherty Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) Daugherty.

16. HCMLP Representations: Each of HCMLP and each HCMLP Released Party who has signed this Settlement represents and warrants to Daugherty that (a) he, she or it has not sold, transferred, pledged, assigned or hypothecated any HCMLP Released Claim to any other person or entity and (b) he, she, or it has full authority to release any HCMLP Released Claims that such HCMLP Released Party personally has against Daugherty.

17. Additional HCMLP Representations: HCMLP represents and warrants that it is releasing the HCMLP Released Claims on behalf of the HCMLP Entities to the maximum extent permitted by any contractual or other legal rights HCMLP possesses. To the extent any of the HCMLP Entities dispute HCMLP's right to release the HCMLP Released Claims on behalf of any of the HCMLP Entities, HCMLP shall use commercially reasonable efforts to support Daugherty's position, if any, that such claims were released herein. For the avoidance of doubt, HCMLP will have no obligations to assist Daugherty under this paragraph if HCMLP has been advised by external counsel that such assistance could subject HCMLP to liability to any third party or if such assistance would require HCMLP to expend material amounts of time or money. HCMLP shall not argue in any forum that the non-signatory status of any of the HCMLP Entities to this Settlement shall in any way affect the enforceability of this Settlement vis-à-vis any of the HCMLP Entities. The Parties agree that all of the HCMLP Entities are intended third-party beneficiaries of this Release.

18. HCMLP Covenant: HCMLP and the HCMLP Entities covenant and agree that they will not pursue or seek to enforce any injunctions entered in the Texas Action against

Daugherty.

19. Entire Agreement; Modification: This Settlement contains the entire agreement between the Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between the Parties. This Settlement may not be modified other than by a signed writing executed by the Parties.

20. Bankruptcy Court Approval: Notwithstanding anything to the contrary contained herein, the effectiveness of HCMLP and the Claimant Trust's execution of this Settlement shall be subject to entry of an order of the Bankruptcy Court approving this Settlement. HCMLP shall take all steps necessary to file with the Bankruptcy Court a motion for an order approving this Settlement pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code (the "Motion"). The parties agree to cooperate in the preparation and prosecution of the Motion which shall be filed no later than 5 business day after execution of this Settlement, unless such time is extended by mutual agreement.

21. Counterparts: This Settlement may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument and shall be effective against a Party or Additional Released Party upon approval of the Settlement by the Bankruptcy Court.

22. Governing Law; Jurisdiction: This Settlement will be exclusively governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles, and all claims relating to or arising out of this Settlement, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of Delaware, excluding Delaware's conflicts of law principles. The Bankruptcy Court will retain exclusive jurisdiction over all disputes relating to this Settlement.

23. Headings: Paragraph headings included herein are for convenience and shall have no impact whatsoever on the meaning or interpretation of any part of this Settlement.

[Remainder of page intentionally left blank]

In witness whereof, the parties hereto, intending to be legally bound, have executed this Settlement as of the day and year set forth below:

Dated: 11-21-21

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____

Name: James P. Seery, Jr.

Title: Chief Executive Officer

HIGHLAND CLAIMANT TRUST

By: _____

Name: James P. Seery, Jr.

Title: Claimant Trustee

Dated: 11/22/21

PATRICK HAGAMAN DAUGHERTY

By: _____

Name: Patrick Hagaman Daugherty

EXHIBIT A

HERA RELEASE AGREEMENT

This HERA Release Agreement ("HERA Release Agreement") is entered into as of November 21, 2021 by and among Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), Patrick Hagaman Daugherty ("Daugherty"), Highland Employee Retention Assets, LLC ("HERA") and Highland ERA Management, LLC ("ERA" and together with HCMLP, and HERA, the "Parties," and individually as a "Party").

WHEREAS, reference is hereby made to the Settlement Agreement (the "Settlement") of even date herewith and attached hereto made and entered into by and between the Debtor, the Highland Claimant Trust, and Daugherty.

WHEREAS, the Settlement settles all of Daugherty's claims against the HCMLP Released Parties, including all claims against the HCMLP Released Parties relating to transfers of assets from HERA.

WHEREAS, the Settlement includes, among other things, the transfer by HCMLP to Daugherty of HCMLP's interests in HERA and ERA.

WHEREAS, under the Settlement such transfer is being made without any liability to any of the HCMLP Released Parties of any type and is conditional on the full release of, and covenant not to sue, each of the HCMLP Released Parties, by and from HERA, ERA, Daugherty and the Daugherty Released Parties.

WHEREAS, neither HERA nor ERA filed proofs of claim in the Bankrupty and have no claims against HCMLP.

WHEREAS, out of an abundance of caution to confirm that HERA, ERA, Daugherty, and the Daugherty Released Parties have no claims against the HCMLP Released Parties, this HERA Release Agreement is being entered into contemporaneously with the Settlement and constitutes an

essential part thereof.

WHEREAS, capitalized terms used herein but not otherwise defined herein have the respective meanings set forth in the Settlement.

NOW, THEREFORE, in consideration of the entry into of the Settlement, the transfer of the equity interests in HERA and ERA to Daugherty in accordance with the Settlement, and for other good and valuable consideration, including the provisions set forth herein, the parties hereto further agree as follows:

1. Upon entry of an order of the Bankruptcy Court approving this Settlement and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Additional Release Parties, together with each of HERA and ERA (Daugherty, the Daugherty Additional Release Parties, HERA and ERA shall be collectively referred to herein as the "HERA Releasing Parties"), each hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, any of the HCMLP Released Parties for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, Highland Delaware Case, or the HERA Delaware Case (collectively, "Claims"), in each case that in any way arise from or otherwise in any way relate to HERA or ERA, including, without limitation, any actual or potential claims, whether known or unknown, in any way related to or

arising out of the formation, management, operation or assets of HERA, ERA or any of their respective predecessors or successors, including the transfer of any assets to or from HERA or ERA, it being understood that all remaining assets of HERA have been transferred to HCMLP prior to the date hereof, and in addition to the releases set forth above, each of the HERA Releasing Parties irrevocably waives and releases and covenants not to sue with respect to any Claims against any of the HCMLP Released Parties in any way related to any such transfers or assets, whether *in personam* with respect to the HCMLP Released Parties or *in rem* with respect to any of their assets (collectively, the "HERA Released Claims") or any other Disposition.

2. This Release constitutes a part of, and is supplemental to, the provisions of the Settlement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

In witness whereof, the parties hereto, intending to be legally bound, have executed this HERA Release Agreement as of the date set forth above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

PATRICK HAGAMAN DAUGHERTY

By: _____
Name: Patrick Hagaman Daugherty

HIGHLAND EMPLOYEE RETENTION ASSETS, LLC

By: Highland ERA Management, LLC, its manager

By: Highland Capital Management, LP

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND ERA MANAGEMENT, LLC

By: _____
Name: James P. Seery, Jr.
Title: Authorized Signatory

EXHIBIT B

CAUSE NO. 12-04005		
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**IN THE DISTRICT COURT OF**
Plaintiffs,	§	
v.	§	
PATRICK DAUGHERTY,	§	
Defendant and Counter-Plaintiff,	§	**DALLAS COUNTY, TEXAS**
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	
Third-Party Defendants.	§	
	§	**68th JUDICIAL DISTRICT**

AGREED MOTION TO PARTIALLY VACATE THE FINAL JUDGMENT DATED JULY 14, 2014

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Highland Capital Management, LP ("Highland") and Defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties") file this *Agreed Motion to Partially Vacate the Final Judgment dated July 14, 2014* (the "Motion"), and respectfully show the following:

1. On July 14, 2014, this Court entered a *Final Judgment* (the "Judgment") that, among other things, granted Highland's motion for injunctive relief against Daugherty.

2. The Judgment was amended on March 23, and June 23, 2017.

3. On October 16, 2019, filed a petition under chapter 11 in the United States Bankruptcy Court for the District of Delaware ("Highland's Bankruptcy Case"). On October 24,

2019, as a result of the commencement of Highland's Bankruptcy Case, the Supreme Court of Texas issued an order abating a related case that Daugherty had brought in that court, Case No. 19-0758. Highland's Bankruptcy Case was subsequently transferred to the United States Bankruptcy Court for the Northern District of Texas.

4. Daugherty asserted certain claims against Highland in Highland's Bankruptcy Case. The Parties have fully and finally resolved their disputes pursuant to a settlement agreement (the "Settlement Agreement") reached in the Highland Bankruptcy Case pursuant to which, among other things, (a) all of Daugherty's known and unknown claims against each of the Highland Released Parties (as those terms are defined in the Settlement Agreement) are resolved, and (b) this Motion seeking the *vacatur* of certain provisions of the Judgment specifically set forth below is being filed.

5. Highland and Daugherty hereby agree and stipulate that the Court has plenary power to issue an order granting this Motion because the Court retained authority to enforce the permanent injunction rendered in the Judgment, and that changed circumstances have now arisen such that the Court should dissolve the permanent injunction. Highland and Daugherty further agree and stipulate that this Motion shall be treated as an agreement of the Parties pursuant to Texas Rule of Civil Procedure 11, and is fully enforceable. *See Coale v. Scott*, 331 S.W.3d 829, 831-32 (Tex. App.—Amarillo 2011, no pet.) ("Irrespective of whether a trial court lost its plenary jurisdiction over its judgment, the trial court's authority to approve a Rule 11 agreement does not depend on whether it has such jurisdiction.").

6. Highland and Daugherty agree that the following portions of the Judgment shall be vacated pursuant to their settlement in the Highland Bankruptcy:

a. The second full paragraph on Page 2 of the Judgment, which begins "The Court, after considering the jury's findings regarding Daugherty's breaches of contract and breaches of fiduciary duty . . .";

b. The permanent injunction rendered against Daugherty in the third full paragraph on Page 2 of the Judgment, which begins "It is therefore further ORDERED that Daugherty be and hereby is commanded to cease and desist from . . .";

c. The fourth and fifth full paragraphs on Page 2 of the Judgment awarding Highland a monetary judgment against Daugherty for reasonable and necessary attorney's fees, as well as post-judgment interest on that award[1]; and

d. The jury's answers to Questions 1, 2, 5, 6, 9 and 12 in the Verdict, which was attached as Exhibit 1 to the Judgment.

7. Highland and Daugherty further agree that, as a result of the vacation of the permanent injunction in the Judgment, Highland hereby withdraws any pending motions to show cause or motions for contempt against Daugherty that allege Daugherty violated or is violating the permanent injunction. Highland also agrees not to seek to enforce the permanent injunction in any manner in the future.

[1] Daugherty previously satisfied the monetary judgment awarded to Highland, and Highland filed a release of the monetary judgment. Although Highland and Daugherty have agreed to vacate the monetary judgment awarded to Highland, Daugherty waives and relinquishes any right or claim to recover any amount previously paid in satisfaction of the Judgment and Highland shall not be required to reimburse Daugherty for his prior satisfaction of the monetary judgment. To the extent Daugherty is entitled to indemnification for any liabilities, losses, and damages allegedly incurred by him for actions taken in connection with Highland's business, including the liabilities Daugherty allegedly incurred in connection with this action and the Judgment, such indemnification claims have been fully and finally satisfied and resolved under the Settlement Agreement.

8. Concurrent with the filing of this Motion, Daugherty will file a motion to dismiss his as-yet unfiled petition for review pending before the Supreme Court of Texas under Case No. 19-0758.

9. Highland and Daugherty further agree that any portions of the Judgment that are not specifically vacated pursuant to this Motion shall remain in full force and effect.

WHEREFORE, Highland and Daugherty pray that the Court grant this Motion in its entirety, and for all further relief, at law or in equity, the Court deems necessary.

Respectfully submitted,

GRAY REED & McGRAW LLP

By: */s/ Sonya D. Reddy*
ANDREW K. YORK
State Bar No. 24051554
E-mail: dyork@grayreed.com
SONYA D. REDDY
State Bar No. 24079188
E-mail: sreddy@grayreed.com

1601 Elm Street, Suite 4600
Dallas, Texas 75201
(214) 954-4135
(214) 953-1332 (Fax)

ATTORNEYS FOR PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been transmitted by electronic transmission to all counsel of record on February ___, 2021, as follows:

Marc D. Katz
Crystal J. Woods
DLA PIPER LLP (US)
1717 Main St., Suite 3700
Dallas, Texas 75201
214-743-4545 (Fax)
marc.katz@dlapiper.com
crystal.woods@dlapiper.com

Attorneys for Highland Capital Management, L.P.

Michael K. Hurst
A. Shonn Brown
Jonathan Childers
LYNN PINKER COX HURST, LLP
2100 Ross Ave., Suite 2700
Dallas, Texas 75201
(214) 981-3839 (Fax)
mhurst@lynnllp.com
sbrown@ lynnllp.com
jchilders@ lynnllp.com

Attorneys for Third-Party Defendants HERA, Patrick Boyce, and William Britain

/s/ Sonya D. Reddy
SONYA D. REDDY

APPENDIX A (signatures to follow)

1. James P. Seery, Jr.
2. Cameron Baynard
3. Nathan Burns
4. Timothy Cournoyer
5. Naomi Chisum
6. Stetson Clark
7. Sean Fox
8. Matthew Gray
9. Kristin Hendrix
10. David Klos
11. Vishal Patel
12. Thomas Surgent
13. Michael Throckmorton

EXHIBIT 2

HIGHLAND CAPITAL MANAGEMENT

February 3, 2018

By Mail and Electronic Mail

Patrick Daugherty
3621 Cornell Ave
Dallas, TX 75205
phdaugherty@gmail.com

Re: Field Examiners' Proposed Tax Adjustments – 2008 Tax Year
Highland Capital Management, L.P.

Dear Patrick,

As previously advised, a team of IRS field examiners ("Exam") conducted an audit of the 2008 partnership tax return filed on behalf of Highland Capital Management, L.P. ("Highland"). Exam concluded their audit and have proposed an adjustment to the 2008 return.

We have enclosed with this letter the following items: (a) IRS Form 886-Z except -A, and (b) IRS Form 870-PT. *At this time, no action on your part is required with respect to these documents unless you wish to agree to Exam's proposed adjustments – which we do not recommend.*

Exam has scheduled a closing conference on March 2, 2018. You do not need to attend the closing conference. Please let us know by the close of business on February 15, 2018 if you wish to attend. Highland will handle the closing conference (unless waived) and appeal the proposed adjustment to the IRS Appeals Office after the conference.

Please contact me at 972-419-4438 if you have any questions.

Regards,

Brian Collins
Director of Human Resources
Highland Capital Management, L.P.

Enclosures

EXHIBIT 3

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio income (loss) net short-term gain (loss) (4)	(5)
[redacted]				

Continuation

TIN of Partner (6)	(7)	(8)	(9)	(10)	(11)
[redacted]					
Totals					

This form only reflects Schedule K-1 items adjusted by the report dated: _____

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio income (loss) net short-term gain (loss) (4)	(5)
[redacted]				
Daugherty, Patrick 3621 Cornell Ave. Dallas, TX 75205	452-94-7373	0.74030000%	1,257,792.00	
[redacted]				

Continuation

[redacted]					
Totals					

This form only reflects Schedule K-1 items adjusted by the report dated: _____

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio Income (loss) net short-term gain (loss) (4)	 (5)
[redacted]				

Continuation

[redacted]					
Totals					

This form only reflects Schedule K-1 items adjusted by the report dated: _____

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio income (loss) net short-term gain (loss) (4)	(5)
[redacted]				
Totals		100.00000000%	169,902,949.00	

Continuation

[redacted]

This form only reflects Schedule K-1 items adjusted by the report dated: _____

EXHIBIT 4

Form 870-PT (Rev. 4-2012) For partnership taxable years ending after August 5, 1997	Department of the Treasury — Internal Revenue Service **Agreement for Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts**	IN REPLY REFER TO:

Taxpayer(s) name(s), address and zip code:	Name of Partnership:	Tax Year(s) Ended:
Daugherty, Patrick 3621 Cornell Ave. Dallas, TX 75205	Highland Capital Management EIN: 75-2716725	12/31/2008
TIN: 452-94-7373	Name of Tax Matters Partner: Strand Advisors, Inc.	

Offer of Agreement to Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts & Waiver of Restrictions on Assessment for Partnership Items, Penalties, Additions to Tax, and Additional Amounts

Under the provisions of sections 6224(c) and 7121 of the Internal Revenue Code (IRC), the Commissioner of the Internal Revenue Service and the undersigned taxpayer(s) agree to the determination of partnership items and partnership level determinations as to penalties, additions to tax, and additional amounts that relate to adjustments to partnership items as shown on the attached Schedule of Adjustments.

The undersigned taxpayer(s), in accordance with IRC sections 6224(b) and 6213(d), also waive(s) the restrictions provided by IRC sections 6225(a) and 6213(a) and consent(s) to the assessment and collection of any deficiency attributable to partnership items, penalties, additions to tax, and additional amounts that relate to partnership items, as set forth in the attached Schedule of Adjustments (plus any interest provided by law). IRC Section 6651 late filing penalty applies to any late filed (or non-filed) returns that are required to report the partnership item adjustments.

This agreement is conditional and will not become effective or final until this agreement form is returned to the Commissioner and is signed on his or her behalf. The one-year extension of the period of limitations on assessments under IRC section 6229(f) will not begin to run until the date the Commissioner's representative signs this form on the Commissioner's behalf. If this is a partial agreement, the period of limitations for assessing any tax attributable to the settled items shall be determined as if this agreement had not been entered into.

If this part of this agreement form is signed for the Commissioner, the treatment of partnership items and partnership level determinations as to penalties, additions to tax and additional amounts that relate to adjustments to partnership items under this agreement will not be reopened in the absence of fraud, malfeasance, or misrepresentation of fact. In addition, no claim for an adjustment of partnership items, refund or credit based on any change in the treatment of partnership items or partnership level determinations as to penalties, additions to tax, and additional amounts may be filed or prosecuted.

Once the taxpayer signs such a waiver and it is countersigned by the Commissioner, the taxpayer cannot file an Administrative Adjustment Request (AAR) on any partnership items for the related TEFRA entity. This includes partnership items not specifically addressed on the attached Schedule of Adjustments.

Signature of Taxpayer	Date Signed	Phone Number
Signature of Taxpayer	Date Signed	Phone Number
By (Signature and Title)	Date Signed	Phone Number

FOR INTERNAL REVENUE USE ONLY	Date accepted for Commissioner	Signature
	Office	Title

INSTRUCTIONS FOR SIGNING FORM 870-PT

1. Sign the agreement if you wish to agree to the partnership items *and partnership level determinations as to penalties, additions to tax, and additional amounts*, as shown on the attached Schedule of Adjustments. The execution and filing of this offer will expedite the adjustment of tax liability.

2. If a JOINT RETURN OF A HUSBAND AND WIFE was filed and both spouses intend to agree, both spouses should sign Form 870-PT. One spouse may sign as agent for the other if acting under a power of attorney, which, if not previously filed, must accompany this form. The IRS may accept the signature of only one spouse at its discretion. However, the agreement will only be binding on the signing spouse.

3. If the taxpayer is a corporation, the agreement should be signed with the corporate name followed by the signature and title of the officer authorized to sign Form 870-PT.

4. Your attorney or agent may sign for you if this action is specifically authorized by a power of attorney, which if not previously filed, must accompany this form.

5. If this offer is signed by a trust, the agreement must be signed with the trust name, followed by the signature and title of the person authorized to sign on behalf of the trust. If the trustee is signing this agreement on behalf of the trust and all beneficiaries, a Form 56 must be signed by the trustee. If an individual beneficiary is signing the agreement to bind themselves to the agreement, no Form 56 is needed.

6. If the partner is an LLC, the agreement should be signed by the manager of the LLC or other authority as authorized by State law. The signature line should show: [Name of LLC], by [Name of Manager], Followed by the title [Manager].

7. For a partner who is a subsidiary corporation in a consolidated group:

   - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, the agreement should be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The common parent corporation signs the agreement in its own name. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a).

   - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement and should do so in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(6)(iii). The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block. The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.

8. For a partner who is the common parent corporation of a consolidated group, a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year(s) should sign the agreement in the name of the common parent corporation. See Treas. Reg. § 1.1502-77(a).

9. If the Tax Matters Partner signs this offer, please include the title with the signature.

10. If the Tax Matters Partner is a subsidiary corporation in a consolidated group:

    - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, then a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year should sign the agreement on behalf of the Tax Matters Partner. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a). An authorized officer for the subsidiary corporation should also sign if it, as the Tax Matters Partner, is binding non-notice partners under the agreement. The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block

    - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(3)(v). The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.

NOTE: The submission of this offer by you and the acceptance of the offer for the Commissioner may result in an additional tax liability to you plus interest as provided by law. If the result is a decrease in tax, the amount of the decrease will be sent to you with interest as provided by law.

Department of the Treasury — Internal Revenue Service

Agreement for Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts

SCHEDULE OF ADJUSTMENTS

NAME OF PARTNERSHIP: Highland Capital Management EIN: 75-2716725	TAX YEAR(S) ENDED 12/31/2008		
DETAIL OF ADJUSTMENTS TO ORDINARY INCOME:			
a.			
b.			
c.			
d.			
e.			
f.			
g.			
TOTAL ADJUSTMENTS TO ORDINARY INCOME			
OTHER ADJUSTMENTS			
A. Portfolio income (loss) net short-term gain (loss)			
(1) ADJUSTMENT	166,332,713.00		
(2) AS REPORTED	3,570,236.00		
(3) CORRECTED	169,902,949.00		
(1) ADJUSTMENT			
(2) AS REPORTED			
(3) CORRECTED			

REMARKS:

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed September 4, 2025

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

ORDER (A) DENYING PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) GRANTING HIGHLAND CAPITAL MANAGEMENT, L.P.'S CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Having considered (a) the *Motion to Dismiss* [Adv. Docket No. 5] (the "Motion") filed by Patrick Daugherty ("Mr. Daugherty"); (b) the (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket Nos. 9 and 10] (the "Objection" and the "Cross Motion," respectively)[2] filed by Highland Capital Management, L.P. ("Highland"); (c) the *Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* and the exhibits annexed thereto submitted in support of Highland's Objection and Cross Motion [Adv. Docket No. 11]; (d) *Patrick Daugherty's (A) Reply in Support of His Motion to Dismiss and (B) Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket No. 15]; (e) *Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket No. 16]; (f) the exhibits filed by Mr. Daugherty at Adv. Docket No. 19; and (g) the arguments presented by counsel during the hearing held on September 4, 2025 (the "Hearing"), the Court finds and concludes that: (i) the Court has jurisdiction to consider the Motion, the Objection, and the Cross Motion under 28 U.S.C. §§ 157 and 1334 and the retention of jurisdiction provisions of Article XI of the Plan; (ii) consideration of the Motion, the Objection, and the Cross Motion is a core proceeding under 28 U.S.C. § 157(b)(2); (iii) venue is proper in this district under 28 U.S.C. §§ 1408 and 1409; and (iv) the legal and factual bases set forth in the Objection and the Cross Motion establish good cause for the relief granted herein.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Objection and Cross Motion.

Accordingly, for the reasons set forth on the record during the Hearing, it is hereby **ORDERED THAT**:

1. The Motion is **DENIED** in its entirety.

2. The Cross Motion is **GRANTED** in its entirety.

3. Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement.

4. The Court shall retain exclusive jurisdiction to hear and determine all matters and disputes arising from the interpretation and implementation of this Order.

###End of Order###

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed September 4, 2025

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

ORDER (A) DENYING PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) GRANTING HIGHLAND CAPITAL MANAGEMENT, L.P.'S CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Having considered (a) the *Motion to Dismiss* [Adv. Docket No. 5] (the "Motion") filed by Patrick Daugherty ("Mr. Daugherty"); (b) the (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket Nos. 9 and 10] (the "Objection" and the "Cross Motion," respectively)[2] filed by Highland Capital Management, L.P. ("Highland"); (c) the *Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s* (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* and the exhibits annexed thereto submitted in support of Highland's Objection and Cross Motion [Adv. Docket No. 11]; (d) *Patrick Daugherty's (A) Reply in Support of His Motion to Dismiss and (B) Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket No. 15]; (e) *Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket No. 16]; (f) the exhibits filed by Mr. Daugherty at Adv. Docket No. 19; and (g) the arguments presented by counsel during the hearing held on September 4, 2025 (the "Hearing"), the Court finds and concludes that: (i) the Court has jurisdiction to consider the Motion, the Objection, and the Cross Motion under 28 U.S.C. §§ 157 and 1334 and the retention of jurisdiction provisions of Article XI of the Plan; (ii) consideration of the Motion, the Objection, and the Cross Motion is a core proceeding under 28 U.S.C. § 157(b)(2); (iii) venue is proper in this district under 28 U.S.C. §§ 1408 and 1409; and (iv) the legal and factual bases set forth in the Objection and the Cross Motion establish good cause for the relief granted herein.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Objection and Cross Motion.

Accordingly, for the reasons set forth on the record during the Hearing, it is hereby **ORDERED THAT**:

1. The Motion is **DENIED** in its entirety.

2. The Cross Motion is **GRANTED** in its entirety.

3. Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement.

4. The Court shall retain exclusive jurisdiction to hear and determine all matters and disputes arising from the interpretation and implementation of this Order.

###End of Order###

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-sgj

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Sep 05, 2025 Form ID: pdf001 Total Noticed: 5

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Sep 07, 2025:

Recip ID		Recipient Name and Address
dft	+	Patrick Hagaman Daugherty, 3621 Cornell Avenue, Suite 830, Dallas, TX 75205-2818

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Sep 05 2025 22:03:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Sep 05 2025 22:03:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Sep 05 2025 22:03:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Sep 05 2025 22:03:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 07, 2025 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on September 5, 2025 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 3

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	CASE NO. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	ADV. PROC. NO. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

NOTICE OF APPEAL

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): **Patrick Daugherty**

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

   For appeals in a bankruptcy case
   and not in an adversary proceeding.
   ☐ Debtor
   ☒ Creditor
   ☐ Trustee
   ☐ Other (describe):

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed: **Order (a) Denying Patrick Duagherty's Motion to Dismiss and (b) Granting Highland Capital Management, L.P.'s Cross Motion for Relief From a Final Order Pursuant to Bankruptcy Rule 9024 [Docket No. 23], attached hereto as Exhibit A.** Daugherty appeals the Court's Order to the extent it granted relief under Rule 60(b). *See Browder v. Director, Dep't of Corr. of Ill.*, 434 U.S. 257, 263 n.7 (1978) ("A timely appeal may be taken . . . from a ruling on a Rule 60(b) motion.").

2. State the date on which the judgment, order, or decree was entered: **September 5, 2025.**

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Patrick Daugherty	Jason S. Brookner Texas Bar No. 24033684 Andrew K. York Texas Bar No. 24051554 Joshua D. Smeltzer Texas Bar No. 24113859 Drake M. Rayshell Texas Bar No. 24118507 **GRAY REED** 1601 Elm Street, Suite 4600 Dallas, Texas 75201 Telephone: (214) 954-4135 Facsimile: (214) 953-1332 Email: jbrookner@grayreed.com dyork@grayreed.com jsmeltzer@grayreed.com drayshell@grayreed.com
2. Highland Capital Management, L.P. and Highland Claimant Trust	Jeffrey N. Pomerantz (admitted *pro hac vice)* John A. Morris (admitted *pro hac vice*) Gregory V. Dmo (admitted *pro hac vice*) Hayley R. Winograd (admitted *pro hac vice*) **PACHULSKI STANG ZIEHL & JONES LLP** 10100 Santa Monica Blvd., 13th Floor Los Angeles, California 90067 Telephone: (310) 277-6910 Facsimile: (310) 201-0760 Email: jpomerantz@pszjlaw.com jmorris@pszjlaw.com gdemo@pszjlaw.com hwinograd@pszjlaw.com -and- Melissa S. Hayward Texas Bar No. 24044908 Zachery Z. Annable Texas Bar No. 24053075 **HAYWARD PLLC** 10501 N. Central Expwy., Suite 106 Dallas, Texas 75231 Telephone: (972) 755-7100 Facsimile: (972) 75507110 Email: mhayward@haywardfirm.com zannble@haywardfirm.com

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign Below

Respectfully submitted this 19th day of September, 2025.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 19th day of September, 2025, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT A

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed September 4, 2025

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

ORDER (A) DENYING PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) GRANTING HIGHLAND CAPITAL MANAGEMENT, L.P.'S CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Having considered (a) the *Motion to Dismiss* [Adv. Docket No. 5] (the "Motion") filed by Patrick Daugherty ("Mr. Daugherty"); (b) the (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket Nos. 9 and 10] (the "Objection" and the "Cross Motion," respectively)[2] filed by Highland Capital Management, L.P. ("Highland"); (c) the *Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s* (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* and the exhibits annexed thereto submitted in support of Highland's Objection and Cross Motion [Adv. Docket No. 11]; (d) *Patrick Daugherty's (A) Reply in Support of His Motion to Dismiss and (B) Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket No. 15]; (e) *Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket No. 16]; (f) the exhibits filed by Mr. Daugherty at Adv. Docket No. 19; and (g) the arguments presented by counsel during the hearing held on September 4, 2025 (the "Hearing"), the Court finds and concludes that: (i) the Court has jurisdiction to consider the Motion, the Objection, and the Cross Motion under 28 U.S.C. §§ 157 and 1334 and the retention of jurisdiction provisions of Article XI of the Plan; (ii) consideration of the Motion, the Objection, and the Cross Motion is a core proceeding under 28 U.S.C. § 157(b)(2); (iii) venue is proper in this district under 28 U.S.C. §§ 1408 and 1409; and (iv) the legal and factual bases set forth in the Objection and the Cross Motion establish good cause for the relief granted herein.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Objection and Cross Motion.

Accordingly, for the reasons set forth on the record during the Hearing, it is hereby **ORDERED THAT**:

1. The Motion is **DENIED** in its entirety.

2. The Cross Motion is **GRANTED** in its entirety.

3. Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement.

4. The Court shall retain exclusive jurisdiction to hear and determine all matters and disputes arising from the interpretation and implementation of this Order.

###End of Order###

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	CASE NO. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	ADV. PROC. NO. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

NOTICE OF APPEAL

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): **Patrick Daugherty**

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

   For appeals in a bankruptcy case
   and not in an adversary proceeding.
   ☐ Debtor
   ☒ Creditor
   ☐ Trustee
   ☐ Other (describe):

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed: **Order (a) Denying Patrick Duagherty's Motion to Dismiss and (b) Granting Highland Capital Management, L.P.'s Cross Motion for Relief From a Final Order Pursuant to Bankruptcy Rule 9024 [Docket No. 23], attached hereto as Exhibit A.** Daugherty appeals the Court's Order to the extent it granted relief under Rule 60(b). *See Browder v. Director, Dep't of Corr. of Ill.*, 434 U.S. 257, 263 n.7 (1978) ("A timely appeal may be taken . . . from a ruling on a Rule 60(b) motion.").

2. State the date on which the judgment, order, or decree was entered: **September 5, 2025.**

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Patrick Daugherty	Jason S. Brookner Texas Bar No. 24033684 Andrew K. York Texas Bar No. 24051554 Joshua D. Smeltzer Texas Bar No. 24113859 Drake M. Rayshell Texas Bar No. 24118507 **GRAY REED** 1601 Elm Street, Suite 4600 Dallas, Texas 75201 Telephone: (214) 954-4135 Facsimile: (214) 953-1332 Email: jbrookner@grayreed.com dyork@grayreed.com jsmeltzer@grayreed.com drayshell@grayreed.com
2. Highland Capital Management, L.P. and Highland Claimant Trust	Jeffrey N. Pomerantz (admitted *pro hac vice)* John A. Morris (admitted *pro hac vice*) Gregory V. Dmo (admitted *pro hac vice*) Hayley R. Winograd (admitted *pro hac vice*) **PACHULSKI STANG ZIEHL & JONES LLP** 10100 Santa Monica Blvd., 13th Floor Los Angeles, California 90067 Telephone: (310) 277-6910 Facsimile: (310) 201-0760 Email: jpomerantz@pszjlaw.com jmorris@pszjlaw.com gdemo@pszjlaw.com hwinograd@pszjlaw.com -and- Melissa S. Hayward Texas Bar No. 24044908 Zachery Z. Annable Texas Bar No. 24053075 **HAYWARD PLLC** 10501 N. Central Expwy., Suite 106 Dallas, Texas 75231 Telephone: (972) 755-7100 Facsimile: (972) 75507110 Email: mhayward@haywardfirm.com zannble@haywardfirm.com

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign Below

Respectfully submitted this 19th day of September, 2025.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 19th day of September, 2025, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT A

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed September 4, 2025

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

ORDER (A) DENYING PATRICK DAUGHERTY'S MOTION TO DISMISS AND (B) GRANTING HIGHLAND CAPITAL MANAGEMENT, L.P.'S CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024

Having considered (a) the *Motion to Dismiss* [Adv. Docket No. 5] (the "Motion") filed by Patrick Daugherty ("Mr. Daugherty"); (b) the (*A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket Nos. 9 and 10] (the "Objection" and the "Cross Motion," respectively)[2] filed by Highland Capital Management, L.P. ("Highland"); (c) the *Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* and the exhibits annexed thereto submitted in support of Highland's Objection and Cross Motion [Adv. Docket No. 11]; (d) *Patrick Daugherty's (A) Reply in Support of His Motion to Dismiss and (B) Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket No. 15]; (e) *Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Docket No. 16]; (f) the exhibits filed by Mr. Daugherty at Adv. Docket No. 19; and (g) the arguments presented by counsel during the hearing held on September 4, 2025 (the "Hearing"), the Court finds and concludes that: (i) the Court has jurisdiction to consider the Motion, the Objection, and the Cross Motion under 28 U.S.C. §§ 157 and 1334 and the retention of jurisdiction provisions of Article XI of the Plan; (ii) consideration of the Motion, the Objection, and the Cross Motion is a core proceeding under 28 U.S.C. § 157(b)(2); (iii) venue is proper in this district under 28 U.S.C. §§ 1408 and 1409; and (iv) the legal and factual bases set forth in the Objection and the Cross Motion establish good cause for the relief granted herein.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Objection and Cross Motion.

Accordingly, for the reasons set forth on the record during the Hearing, it is hereby **ORDERED THAT**:

1. The Motion is **DENIED** in its entirety.

2. The Cross Motion is **GRANTED** in its entirety.

3. Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement.

4. The Court shall retain exclusive jurisdiction to hear and determine all matters and disputes arising from the interpretation and implementation of this Order.

###End of Order###

BTXN 116 (rev. 07/08)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

APPEAL SERVICE LIST

Transmission of the Record

BK Case No.: 19−34054−sgj11

Adversary No.: 25−03055−sgj

Received in District Court by: _____

Date: _____

Volume Number(s): _____

cc: Stacey G Jernigan
Courtney Lauer
Michael Edmond
Attorney(s) for Appellant
Jason S. Brookner

Appellant Patrick Daugherty

Jason S. Brookner
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
jbrookner@grayreed.com

Andrew K. York
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
dyork@grayreed.com
Joshua D. Smeltzer
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
jsmeltzer@grayreed.com
Drake M. Rayshell
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332

draysehll@grayreed.com

Appellee Highland Capital Management, L.P.

Jeffrey N. Pomerantz
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
310−277−6910
310−201−0760 (fax)
jpomerantz@pszjlaw.com
John A Morris
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7760
212−561−7777 (fax)
jmorris@pszjlaw.com

Gregory V. Demo
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7700
212−561−7777 (fax)
gdemo@pszjlaw.com

Hayley R Winograd
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7732
hayleywinograd@gmail.com

Melissa S. Hayward
Hayward PLLC
10501 N. Central Expry, Ste. 106
Dallas, TX 75231
972−755−7104
972−755−7104 (fax)
MHayward@HaywardFirm.com

Zachery Z. Annable
Hayward PLLC
10501 N. Central Expressway
Suite 106
Dallas, TX 75231
(972) 755−7108
(972) 755−7108 (fax)
zannable@haywardfirm.com

Appellee Highland Claimant Trust

Jeffrey N. Pomerantz
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
310−277−6910

310−201−0760 (fax)
jpomerantz@pszjlaw.com
John A Morris
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7760
212−561−7777 (fax)
jmorris@pszjlaw.com

Gregory V. Demo
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7700
212−561−7777 (fax)
gdemo@pszjlaw.com

Hayley R Winograd
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7732
hayleywinograd@gmail.com

Melissa S. Hayward
Hayward PLLC
10501 N. Central Expry, Ste. 106
Dallas, TX 75231
972−755−7104
972−755−7104 (fax)
MHayward@HaywardFirm.com

Zachery Z. Annable
Hayward PLLC
10501 N. Central Expressway
Suite 106
Dallas, TX 75231
(972) 755−7108
(972) 755−7108 (fax)
zannable@haywardfirm.com

BTXN 010 (rev. 03/04)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s)	§	Case No.: 19−34054−sgj11
Patrick Daugherty Appellant(s) vs. Highland Capital Management, L.P et al Appellee(s)	§	Adversary No.: 25−03055−sgj

CERTIFICATE OF MAILING

Notice of Appeal Filed By: Patrick Daugherty

Re: Order (a) Denying Patrick Duaghertys Motion to Dismiss and (b) Granting Highland Capital Management, L.P.s Cross Motion for Relief From a Final Order Pursuant to Bankruptcy Rule 9024 entered on 9/5/25 (ECF 23)

The Notice of Appeal was noticed to the parties, indicated by attachment, by either electronic transmission or U.S. mail on September 23, 2025.

DATED: 9/23/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Jeanette Almaraz, Deputy Clerk

BTXN 113 (rev. 3/18)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s)	§	Case No.: 19−34054−sgj11
Patrick Daugherty Appellant(s)	§	Adversary No.: 25−03055−sgj
vs. Highland Capital Management, L.P. et al Appellee(s)	§	

NOTICE REGARDING THE RECORD FOR A BANKRUPTCY APPEAL

Federal Rule of Bankruptcy Procedure 8009 prescribes the deadlines for filing the designations of items to be included in the record, requires copies to be submitted to the bankruptcy clerk to prepare the record, and directs all parties to "take any other action necessary to enable the clerk to assemble and transmit the record." Fed.R.Bankr.P. 8009(g). The purpose of this notice is to provide guidance on the local application of this rule.

DESIGNATION OF THE RECORD

- If you are the appellant, when designating items for inclusion in the record,
  - ♦ list the following items first, in this order: (1) the notice of appeal, (2) the judgment, order, or decree appealed from, (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court, and (4) the docket sheet;
  - ♦ then list the *other* items to be included, leaving for the end of your list any sealed documents, any exhibits, and any transcripts.
- If you are the appellee, cross−appellant, or cross−appellee and are designating additional items,
  - ♦ list the following items first, in this order: (1) any notice of cross−appeal, (2) any judgment, order, or decree appealed from that the appellant has not designated, and (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court that the appellant has not designated;
  - ♦ then list the *other* items to be included, leaving for the end of your list any sealed documents , any exhibits, and any transcripts.
- All parties designating items to be included in the record on appeal must
  - ♦ for each item, specify the document number shown on the docket sheet. If an item does not have a document number, specify the date the item was filed.

- If you have designated a transcript that has not been filed, order it immediately by contacting the presiding bankruptcy judge's courtroom deputy or following the instructions at http://www.txnb.uscourts.gov/transcript−and−tape−orders.

ASSEMBLY OF THE RECORD

Within 14 days of filing your designation of the record, pursuant to Rule 8009, submit to the bankruptcy clerk any item that is **not available in the ECF system**, using this procedure:

- Enclose sealed items and non−documentary items (e.g., removable media) in 8.5" x 11" envelopes.
- Copy all other items in PDF files to a removable storage device (e.g., USB drives, DVDs, etc.), organized in the sequence in which they were designated. Limit files to 5.0 MB in size and do not include color.
- Save copies of court exhibits in PDF files to a removable storage device, organized in the sequence in which they are designated. Limit files to 5.0 MB in size and do not include color. (Use a separate removable storage device for each hearing.)
- Label any submission with the case caption and bankruptcy court case and/or adversary proceeding number.

TRANSMITTAL OF THE RECORD

- The bankruptcy clerk will electronically transmit the record to the district clerk. The parties must provide a paper copy of the record, if required.

REQUIREMENTS REGARDING PAPER RECORD

- If the district judge requires a paper copy, the district clerk will notify you that you are required to provide a copy of the items in *your* designation **to the bankruptcy clerk**, for quality review.
- If you are notified to provide a paper copy, organize the record according to the volumes maintained in the **district court's ECF system**.
- Even if a paper copy is not required when an appeal is entered on the docket, the district judge or the district clerk may later notify you that a paper copy is required for the use of the district judge or the court of appeals.

DATED: 9/23/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Jeanette Almaraz, Deputy Clerk

BTXN 049 (rev. 03/15)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s)	§	Case No.: 19−34054−sgj11 Chapter No.: 11
Highland Capital Management, L.P. Plaintiff(s)	§	Adversary No.: 25−03055−sgj
vs. Patrick Hagaman Daugherty Defendant(s)	§	Civil Case No.:
Patrick Daugherty Appellant(s)	§	
vs. Highland Capital Management, L.P. et al Appellee(s)	§	

NOTICE OF TRANSMITTAL

I am transmitting:

- ☐ The Motion for leave to Appeal 28 U.S.C. § (USDC Civil Action No. DNC Case).
- ☐ The Motion for Stay Pending Appeal (USDC Action No. − DNC Case).
- ☐ The Proposed Findings of Fact and Conclusions of Law.
- ☐ The Motion to Extend Time To File Designation (USDC Civil Action No DNC Case).
- ☐ On , the Record on Appeal was transmitted. The designation of record or item(s) designated by were not filed when the record was transmitted. The item(s) were filed on awaiting instructions from the assigned district judge.
- ☑ Other Filing fee has been paid
- ☑ Copies of: Notice of appeal and related documents

TO ALL ATTORNEYS: File all subsequent papers captioned and numbered with the appropriate division of the United States District Clerk's Office. Any questions concerning this proceeding should be directed to the U.S. District Clerk's Office at (214) 753−2200.

DATED: 9/23/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Jeanette Almaraz, Deputy Clerk

BTXN 150 (rev. 11/10)

In Re: Highland Capital Management, L.P.	§	Case No.: 19−34054−sgj11
Debtor(s)	§	Chapter No.: 11
Highland Capital Management, L.P.	§	
Plaintiff(s)	§	Adversary No.: 25−03055−sgj
vs. Patrick Hagaman Daugherty	§	
Defendant(s)	§	

CIVIL CASE COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) **APPELLANT**
Patrick Hagaman Daugherty

(b) County of Residence of First Listed Party:
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Jason S. Brookner
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
jbrookner@grayreed.com

Andrew K. York
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
dyork@grayreed.com
Joshua D. Smeltzer
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
jsmeltzer@grayreed.com
Drake M. Rayshell
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
draysehll@grayreed.com

APPELLEE
Highland Capital Management, L.P. et al

County of Residence of First Listed Party:
(IN U.S. PLAINTIFF CASES ONLY)

Attorney's (If Known)
Jeffrey N. Pomerantz
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
310−277−6910
310−201−0760 (fax)
jpomerantz@pszjlaw.com
John A Morris
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7760
212−561−7777 (fax)
jmorris@pszjlaw.com

Gregory V. Demo
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7700
212−561−7777 (fax)
gdemo@pszjlaw.com

Hayley R Winograd
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7732
hayleywinograd@gmail.com

Melissa S. Hayward
Hayward PLLC
10501 N. Central Expry, Ste. 106
Dallas, TX 75231
972−755−7104
972−755−7104 (fax)
MHayward@HaywardFirm.com

Zachery Z. Annable
Hayward PLLC
10501 N. Central Expressway
Suite 106
Dallas, TX 75231
(972) 755−7108
(972) 755−7108 (fax)
zannable@haywardfirm.com

II. BASIS OF JURISDICTION

○ 1	U.S. Government Plaintiff	○ 2	U.S. Government Defendant	◉ 3	Federal Question (U.S. Government Not a Party)	○ 4	Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

Citizen of This State	○ 1	○ 1		Incorporated *or* Principal Place of Business In This State	○ 4	○ 4	
Citizen of Another State	○ 2	○ 2		Incorporated *and* Principal Place of Business In Another State	○ 5	○ 5	

Citizen or Subject of a Foreign Country	○ 3	○ 3	Foreign Nation	○ 6	○ 6

IV. NATURE OF SUIT

● 422 Appeal 28 USC 158 ○ 423 Withdrawal 28 USC 157 ○ 890 Other Statutory Actions

V. ORIGIN

● 1 Original Proceeding ○ 2 Removed from State Court ○ 3 Remanded from Appellate Court ○ 4 Reinstated or Reopened

○ 5 Transferred from another district ○ 6 Multidistrict Litigation ○ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing **(Do not cite jurisdictional statutes unless diversity):**
422 Appeal 28 USC 158

Brief description of cause:
Notice of Appeal on Order (a) Denying Patrick Duaghertys Motion to Dismiss and (b) Granting Highland Capital Management, L.P.s Cross Motion for Relief From a Final Order Pursuant to Bankruptcy Rule 9024 entered on 9/5/25

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23 DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY
Judge: Docket Number:

DATED: 9/23/25

FOR THE COURT:
Stephen J Manz, Clerk of Court
by: /s/Jeanette Almaraz, Deputy Clerk

BTXN 116 (rev. 07/08)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

APPEAL SERVICE LIST

Transmission of the Record

BK Case No.: 19−34054−sgj11

Adversary No.: 25−03055−sgj

Received in District Court by: _____

Date: _____

Volume Number(s): _____

cc: Stacey G Jernigan
Courtney Lauer
Michael Edmond
Attorney(s) for Appellant
Jason S. Brookner

Appellant Patrick Daugherty

Jason S. Brookner
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
jbrookner@grayreed.com

Andrew K. York
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
dyork@grayreed.com
Joshua D. Smeltzer
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332
jsmeltzer@grayreed.com
Drake M. Rayshell
Gray Reed & McGraw LLP
1601 Elm Street
Suite 4600
Dallas, TX 75201
214−954−4135
Fax : 214−953−1332

draysehll@grayreed.com

Appellee Highland Capital Management, L.P.

Jeffrey N. Pomerantz
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
310−277−6910
310−201−0760 (fax)
jpomerantz@pszjlaw.com
John A Morris
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7760
212−561−7777 (fax)
jmorris@pszjlaw.com

Gregory V. Demo
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7700
212−561−7777 (fax)
gdemo@pszjlaw.com

Hayley R Winograd
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7732
hayleywinograd@gmail.com

Melissa S. Hayward
Hayward PLLC
10501 N. Central Expry, Ste. 106
Dallas, TX 75231
972−755−7104
972−755−7104 (fax)
MHayward@HaywardFirm.com

Zachery Z. Annable
Hayward PLLC
10501 N. Central Expressway
Suite 106
Dallas, TX 75231
(972) 755−7108
(972) 755−7108 (fax)
zannable@haywardfirm.com

Appellee Highland Claimant Trust

Jeffrey N. Pomerantz
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
310−277−6910

310−201−0760 (fax)
jpomerantz@pszjlaw.com
John A Morris
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7760
212−561−7777 (fax)
jmorris@pszjlaw.com

Gregory V. Demo
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7700
212−561−7777 (fax)
gdemo@pszjlaw.com

Hayley R Winograd
Pachulski Stang Ziehl & Jones LLP
1700 Broadway
Ste 36th Floor
New York, NY 10019
212−561−7732
hayleywinograd@gmail.com

Melissa S. Hayward
Hayward PLLC
10501 N. Central Expry, Ste. 106
Dallas, TX 75231
972−755−7104
972−755−7104 (fax)
MHayward@HaywardFirm.com

Zachery Z. Annable
Hayward PLLC
10501 N. Central Expressway
Suite 106
Dallas, TX 75231
(972) 755−7108
(972) 755−7108 (fax)
zannable@haywardfirm.com

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

STIPULATED SCHEDULING ORDER

This stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. (the "Highland" or the "Debtor") and defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties"), by and through their respective undersigned counsel, to establish certain deadlines pertaining to the litigation of claims asserted in Highland's *Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Adv. Pro. Docket No. 1] (the "Complaint"), provided that Daugherty's agreement to this Stipulation is made subject to, and without waiving, his Notice of Appeal [Adv. Pro. Docket No. 25] of the Court's Order [Adv. Pro. Docket No. 23], filed September 19, 2025.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court"). Bankr. Docket No. 186.

WHEREAS, on April 1, 2020, Daugherty filed Proof of Claim No. 67 ("Claim 67"), which was superseded and replaced by Proof of Claim No. 77 ("Claim 77").

WHEREAS, on December 23, 2020, Daugherty filed Proof of Claim 205 (the "Claim" or

"Claim 205"), which superseded and replaced Claim 77 in its entirety.

WHEREAS, on February 22, 2021, the Bankruptcy Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943] (the "Confirmation Order") which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P., as Modified* [Bankr. Docket No. 1808] (the "Plan").

WHEREAS, on December 8, 2021, the Debtor filed *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the "Settlement Motion").

WHEREAS, on March 8, 2022, the Bankruptcy Court granted the Settlement Motion [Bankr. Docket No. 3298] (the "Settlement Order"), disallowing Claim 67 and Claim 77 with prejudice and resolving all of Claim 205 other than Daugherty's Reserved Claim (as defined in the Parties' *Settlement Agreement* approved by the Settlement Order).

WHEREAS, on May 2, 2025, Highland commenced the Adversary Proceeding by filing the Complaint to disallow, estimate or subordinate Daugherty's Reserved Claim.

WHEREAS, on June 4, 2025, Daugherty moved to dismiss the Complaint on the ground that it was to be stayed pursuant to the Parties' Settlement Agreement [Adv. Pro. Docket No. 5] (the "Motion to Dismiss").

WHEREAS, on July 18, 2025, Highland filed its opposition to the Motion to Dismiss and cross-moved for relief from the Settlement Order [Adv. Pro. Docket Nos. 9 and 10] (the "Cross Motion") seeking to strike the stay provision from paragraph 9 of the Settlement Agreement.

WHEREAS, on August 8, 2025, Daugherty filed his opposition to the Cross Motion [Adv. Pro. Docket No. 15].

WHEREAS, on September 4, 2025, after further briefing and oral argument, the Bankruptcy Court granted the Cross Motion, denied the Motion to Dismiss, and requested the Parties confer on a scheduling order for this litigation.

WHEREAS, the Parties have conferred and desire to enter into the proposed scheduling order set forth below.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Bankruptcy Court, it shall be SO ORDERED:

1. On or before **October 3, 2025**, Daugherty shall serve and file his answer to the Complaint.

2. The Parties shall serve their written discovery requests (including document requests, interrogatories, and requests for admission) (the "Discovery Requests") on the other Party on or before **October 24, 2025**, after which no further Discovery Requests shall be served on another Party absent a Court order entered on reasonable notice and upon a showing of good cause.

3. The Parties shall (a) serve written responses and objections to any Discovery Requests on or before **November 21, 2025**, and (b) be substantially complete with document production on or before **December 12, 2025**.

4. Subpoenas for third-party discovery (including written discovery and depositions) shall be served on or before **December 19, 2025**.

5. Fact depositions shall be taken by video between **January 5 and January 30, 2026**. The Parties shall be limited to five (5) fact depositions per side (except that if multiple corporate representatives are designated, those shall collectively count as one fact deposition), and each fact

deposition shall be limited to five (5) hours of testimony, absent further Court order made after reasonable notice and upon good cause shown.

6. The Parties shall confer in good faith as to the identity of witnesses they seek to depose. Notwithstanding the provisions of paragraph 5, in an effort to be efficient, reduce the burden on third parties, and avoid motion practice, if the Parties intend to depose the same witness, they shall do so in one day, with Highland having up to three (3) hours of testimony and Daugherty having up to four (4) hours of testimony.

7. Fact discovery (including third-party discovery) shall be completed by **January 30, 2026; provided, however,** that if a third-party fact witness is unavailable (or refuses to appear) for deposition on or before January 30, 2026, then the deadline for completing third-party witness depositions shall be extended to February 13, 2026, or such later date as the Court may order after reasonable notice and upon good cause shown.

8. On or before **February 13, 2026**, the Parties shall disclose the identity of any retained expert witness they intend to call at trial, and (b) serve the expert's report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

9. On or before **March 6, 2026**, the Parties shall disclose the identity of any retained rebuttal expert witness they intend to call at trial, and (b) serve the expert's rebuttal report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

10. Expert depositions and expert discovery shall be completed by **March 23, 2026**.

11. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **March 25, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **March 30, 2026**, or they shall be deemed waived.

12. A joint pretrial order in compliance with the Court's Local Rules shall be filed on or before **April 1, 2026**.

13. Any Party wishing to file a trial brief shall file and serve the same on or before **April 3, 2026**.

14. A one-day evidentiary hearing will be held in person before the Court on **April 8, 2026**.

15. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

16. If approved by the Court, this Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

17. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation.

Dated: September 25, 2025.

GRAY REED

/s/ Drake M. Rayshell
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

BTXN 113 (rev. 3/18)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re:	§	
Highland Capital Management, L.P.	§	
Debtor(s)	§	Case No.: 19−34054−sgj11
Patrick Daugherty	§	
Appellant(s)	§	Adversary No.: 25−03055−sgj
vs.	§	
Highland Capital Management, L.P. et al	§	
Appellee(s)	§	
	§	
	§	
	§	
	§	
	§	

NOTICE REGARDING THE RECORD FOR A BANKRUPTCY APPEAL

Federal Rule of Bankruptcy Procedure 8009 prescribes the deadlines for filing the designations of items to be included in the record, requires copies to be submitted to the bankruptcy clerk to prepare the record, and directs all parties to "take any other action necessary to enable the clerk to assemble and transmit the record." Fed.R.Bankr.P. 8009(g). The purpose of this notice is to provide guidance on the local application of this rule.

DESIGNATION OF THE RECORD

- If you are the appellant, when designating items for inclusion in the record,
  - ♦ list the following items first, in this order: (1) the notice of appeal, (2) the judgment, order, or decree appealed from, (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court, and (4) the docket sheet;
  - ♦ then list the *other* items to be included, leaving for the end of your list any sealed documents, any exhibits, and any transcripts.
- If you are the appellee, cross−appellant, or cross−appellee and are designating additional items,
  - ♦ list the following items first, in this order: (1) any notice of cross−appeal, (2) any judgment, order, or decree appealed from that the appellant has not designated, and (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court that the appellant has not designated;
  - ♦ then list the *other* items to be included, leaving for the end of your list any sealed documents , any exhibits, and any transcripts.
- All parties designating items to be included in the record on appeal must
  - ♦ for each item, specify the document number shown on the docket sheet. If an item does not have a document number, specify the date the item was filed.

- If you have designated a transcript that has not been filed, order it immediately by contacting the presiding bankruptcy judge's courtroom deputy or following the instructions at http://www.txnb.uscourts.gov/transcript−and−tape−orders.

ASSEMBLY OF THE RECORD

Within 14 days of filing your designation of the record, pursuant to Rule 8009, submit to the bankruptcy clerk any item that is **not available in the ECF system**, using this procedure:

- Enclose sealed items and non−documentary items (e.g., removable media) in 8.5" x 11" envelopes.
- Copy all other items in PDF files to a removable storage device (e.g., USB drives, DVDs, etc.), organized in the sequence in which they were designated. Limit files to 5.0 MB in size and do not include color.
- Save copies of court exhibits in PDF files to a removable storage device, organized in the sequence in which they are designated. Limit files to 5.0 MB in size and do not include color. (Use a separate removable storage device for each hearing.)
- Label any submission with the case caption and bankruptcy court case and/or adversary proceeding number.

TRANSMITTAL OF THE RECORD

- The bankruptcy clerk will electronically transmit the record to the district clerk. The parties must provide a paper copy of the record, if required.

REQUIREMENTS REGARDING PAPER RECORD

- If the district judge requires a paper copy, the district clerk will notify you that you are required to provide a copy of the items in *your* designation **to the bankruptcy clerk**, for quality review.
- If you are notified to provide a paper copy, organize the record according to the volumes maintained in the **district court's ECF system**.
- Even if a paper copy is not required when an appeal is entered on the docket, the district judge or the district clerk may later notify you that a paper copy is required for the use of the district judge or the court of appeals.

DATED: 9/23/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Jeanette Almaraz, Deputy Clerk

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-sgj

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Sep 23, 2025 Form ID: BTXN113 Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Sep 25, 2025:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Sep 23 2025 21:46:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Sep 23 2025 21:46:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Sep 23 2025 21:46:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Sep 23 2025 21:46:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 25, 2025 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on September 23, 2025 at the address(es) listed below:

Name	Email Address

Andrew K. York
on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com

Melissa S. Hayward
on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com

Zachery Z. Annable
on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 3

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

PATRICK DAUGHERTY'S MOTION FOR STAY PENDING APPEAL

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Defendant Patrick Daugherty files this Motion for Stay Pending Appeal pursuant to Bankruptcy Rule 8007(a)(1)(A) and moves the Court for entry of an order staying its September 4, 2025 Order [Doc. No. 23] and the above-captioned adversary proceeding and would show the Court as follows:

PRELIMINARY STATEMENT

1. On November 22, 2021, Daugherty and Plaintiff Highland Capital Management, L.P. signed a Settlement Agreement wherein Highland agreed it would not pursue litigation against Daugherty until ***after*** the IRS concludes its audit of Highland's tax returns. Also in that Settlement Agreement, Daugherty agreed to reduce some of his claims against Highland, its employees, and its representatives. This Court then approved the Settlement Agreement on March 8, 2022. Daugherty relied on the Court-approved Settlement Agreement for clarity and peace of mind and to manage his involvement in Highland's bankruptcy proceedings. The Settlement Agreement also gave both Daugherty and Highland a definitive triggering event (the "final determination" made by the IRS) for future litigation. The Settlement Agreement remained in effect for three years, until this Court granted Highland's request to rewrite the Settlement Agreement and remove its stay provision without providing any substitute consideration to Daugherty. Respectfully, there was no justification for the Court to second-guess the parties' bargained-for Settlement Agreement and modify it without Daugherty's approval.

2. While Daugherty understands (and shares) the Court's desire to conclude the "Highland litigation," that desire cannot outweigh the fact that Daugherty negotiated a binding give-and-take Settlement Agreement that he has relied upon in all his dealings since this Court approved it in 2022. Daugherty is entitled to the protections of the Settlement Agreement that he

negotiated and obtained, specifically, the requirement that Highland not litigate against him until "the IRS makes a final determination with respect to the IRS Audit Dispute."

3. Relevant to this Motion, the Court should stay (1) the above-captioned adversary proceeding and (2) the enforcement of its September 4, 2025 Order, because Daugherty has satisfied all necessary elements of his requested relief. As detailed below, Daugherty has a substantial likelihood of success on the merits by seeking to enforce the binding Settlement Agreement as written. Moreover, a stay of the adversary and the September 4, 2025 Order would not harm other constituents and would only serve to prevent irreparable harm that might befall Daugherty if litigation continues. Lastly, staying the adversary and the September 4, 2025 Order would serve the public interest because it would give litigants confidence that their negotiated and bargained-for settlement agreements will be enforced by the judiciary.

4. Daugherty respectfully requests that the Court grant a stay of this adversary proceeding and the enforcement of the Court's September 4, 2025 Order so that the status quo can remain while the parties litigate the issues on appeal.

FACTUAL BACKGROUND

5. Daugherty and Highland executed a Settlement Agreement on November 22, 2021, that served to provide clarity for both parties as the main bankruptcy case proceeded towards confirmation. Main Case Docket No. 3088, 3089.[2] The Court approved the Settlement Agreement on March 8, 2022. *Id*.

6. The Settlement Agreement provided Daugherty with, among other things, a Reserved Claim related to the IRS's audit of Highland and its 2008 tax return. Ex. A at ¶ 9. Relevant here, the Settlement Agreement mandates that, "[a]ny litigation by and between

[2] All capitalized terms used but not defined in this motion shall have the same definitions as they have in the Settlement Agreement at Main Case Doc. No. 3089. The Settlement Agreement is also attached as Exhibit A.

[Highland] and Daugherty concerning the validity and amount of the Reserved Claim ***shall be stayed*** until the IRS makes a final determination with respect to the IRS Audit Dispute." *Id.* (emphasis added). The language is mandatory, and both parties relied on that language over the past three and a half years.

7. Despite this language, Highland filed this adversary proceeding against Daugherty seeking to disallow, estimate, and/or subordinate his claim. Doc. No. 1 at ¶¶ 28-45. Highland seeks a determination from the Court on the "validity and amount" of Daugherty's reserved claim—the exact type of relief that Highland agreed not to seek until the IRS makes its "final determination." Tellingly, Highland admits that the IRS audit is not concluded:

> is clawed back by the IRS—Highland's 2008 tax return is currently subject to an IRS audit. But the 2009 Statement contains no future, ongoing obligations. Under the 2009 Statement, if Mr. Daugherty received the material equivalent of the "2008 Refund" (which he apparently did), Highland's obligations have been satisfied in full. The 2009 Statement contains no ongoing obligation for Highland to defend Mr. Daugherty or indemnify him. And it would violate basic

> 4. However, even if Mr. Daugherty's Claim is not disallowed in its entirely, it remains contingent on the outcome of the 2008 Audit. It is unclear when, how, or if the 2008 Audit will be finally resolved. Moreover, if the Claim is not disallowed, it will need to be estimated—after taking into account the likely outcome of the 2008 Audit, including adjustments that result therefrom—pursuant to 11 U.S.C. § 502(c). The Claim (in whatever amount) based on

> 35. As set forth above, Mr. Daugherty has no Claim; however, to the extent the Court believes he has one, it is unliquidated and contingent on the final outcome of the 2008 Audit, including the magnitude of any adjustments. If the 2008 Audit is successfully defended, Mr. Daugherty will have no claim.

See Doc. No. 1 at ¶¶ 3, 4, 35.

8. Under the Settlement Agreement's plain language, Highland's claims against Daugherty are unquestionably premature. It must wait to litigate claims against Daugherty that may or may not exist (depending on the result of the IRS audit). In fact, that result is exactly what the parties bargained for and agreed upon – Daugherty, in part, reduced his claims against Highland in exchange for Highland's promise to wait to litigate the Reserved Claim until the conclusion of the IRS Audit Dispute.

9. On June 4, 2025, Daugherty moved to dismiss this adversary proceeding under Federal Rule of Civil Procedure 12(b)(6). Doc. No. 5. In addition to responding to Daugherty's motion, Highland filed its Cross-Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024, in which it requested that this Court strike the stay provision in the Settlement Agreement. Doc. No. 9. After an oral hearing on September 4, 2025, the Court denied Daugherty's Motion to Dismiss in its entirety and granted Highland's Cross-Motion. *See* Doc. No. 23. Daugherty filed his notice of appeal of the portion of the Court's order granting the Cross-Motion on September 19, 2025. Doc. No. 25.

LEGAL STANDARD

10. Bankruptcy Rule 8007 authorizes a party to seek a "stay of the bankruptcy court's judgment, order, or decree of the bankruptcy court pending appeal." Fed. R. Bankr. P. 8007(a)(1)(A). It also authorizes a party to seek "an order suspending or continuing proceedings

. . . ." Fed. R. Bankr. P. 8007(a)(1)(D).[3] "The motion may be filed either before or after the notice of appeal is filed." Fed. R. Bank. P. 8007(a)(2). When ruling on motions to stay, courts consider the following factors: (1) whether the movant is likely to prevail on the merits; (2) whether the movant will suffer an irreparable injury absent a stay; (3) whether granting the stay would substantially harm other parties; and (4) whether granting the stay would serve the public interest. *In re Heritage Org., L.L.C.*, 375 B.R. 230, 315 (N.D. Tex. 2007) (quoting *Arnold v. Garlock, Inc.*, 278 F.3d 426, 438-39 (5th Cir. 2001)).

11. The Fifth Circuit, however, "has refused to apply these factors in a rigid mechanical fashion." *Reading & Bates Petroleum Co. v. Musslewhite*, 14 F.3d 271, 272 (5th Cir. 1994). Accordingly, several courts within the Fifth Circuit have determined that the "absence of any one factor is not fatal to a successful motion for stay." *In re Permian Producers Drilling, Inc.*, 263 B.R. 510, 515 (W.D. Tex. 2000) (citing *In re First S. Savs. Ass'n*, 820 F.2d 700, 709 n. 10 (5th Cir. 1987)). Here, Daugherty can satisfy the Fifth Circuit's promulgated standard and asks that the Court grant this Motion.

ARGUMENT AND AUTHORITIES

I. Daugherty will likely prevail on appeal because the Settlement Agreement is a binding contract that this Court should not have modified under Rule 60(b)(6).

12. Because the Settlement Agreement created a binding, contractual relationship between Daugherty and Highland, Daugherty will likely prevail on appeal since he seeks merely

[3] *See In re Nu Ride, Inc.*, 666 B.R. 510, 513 (Bankr. D. Del. Dec. 13, 2024) (staying the adversary proceeding pending the appeal of the ruling on a 12(b)(6) motion). Although the bankruptcy court in *In re Nu Ride* issued a narrow holding in light of the United States Supreme Court's decision in *Coinbase*, the rationale is applicable to the present case. *Coinbase* dealt with the stay of a proceeding when the issue on appeal was whether an arbitration provision should be enforced. The Supreme Court stated that because the "entire case is essentially 'involved in the appeal,'" the stay should be granted so as not to entirely forego the benefits of arbitration. *Coinbase, Inc. v. Bielski*, 599 U.S. 736, 143 S.Ct. 1915, 216 L.Ed.2d 671 (2023). The Bankruptcy Court in Delaware adopted the *Coinbase* rationale in its decision to stay an adversary proceeding in its entirety. Here, a very similar argument applies. If the Court does not stay the litigation in the adversary proceeding, and the IRS eventually makes a "final determination" that nullifies the need for the adversary litigation, Daugherty's appellate remedies will be gone. The litigation will have been pointless. The Court should not let that happen and should issue a stay.

to enforce the bargain to which Highland knowingly agreed. The movant on a motion for stay pending appeal must make a showing of the likelihood of success. *See generally In re Heritage Org.*, 375 B.R. at 315. But that element is not nearly as onerous as the text makes it out to be. Even if the movant cannot show a "likelihood of success," the Fifth Circuit still leaves open the door for relief if the movant can "present a substantial case on the merits when a serious legal question is involved and show that the balance of equities weighs heavily in favor of granting the stay." *Arnold*, 278 F.3d at 438-39.

13. Other courts' analyses on this topic are instructive. For example, in *In re Wright*, the bankruptcy court granted the stay and found that a likelihood of success could exist even when the order on appeal reflected the majority view on the topic. *See In re Wright*, No. 20-12415-ABA, 2023 WL 3560551, at *13 (Bankr. D.N.J. May 18, 2023). The bankruptcy court found that, because "there [was a] minority position that the district court might favor," the first element was still satisfied. *Id*. Here, Daugherty needs only show that he can present a substantial case on the merits even if his argument is a request that the district court adopt a minority viewpoint.

14. As Daugherty put forward in his response to Highland's 60(b)(6) cross-motion, there is a body of law which stands for the principle that motions to reform or nullify settlements are disfavored. *See In re Lease Oil Antitrust Litig.*, MDL No. 1206, 2002 WL 35645775, at *13 (S.D. Tex. Dec. 4, 2002) (holding that the movant on a 60(b)(6) presented "no reasons justifying a modification of the Global Settlement…The Court finds that the [current motion is simply] another attempt by CE Corp to collect under the Global Settlement – ***an action that is expressly prohibited***" (emphasis added)); s*ee also Cashner v. Freedom Stores, Inc.*, 98 F.3d 572, 580 (10th Cir. 1996) (reversing the grant of a 60(b)(6) motion in situation where "[d]efendants made a free, counseled, deliberate choice whose consequences in hindsight are unfortunate" (citing *Pelican*

Prod. Corp. v. Marino, 893 F.2d 1143, 1147 (10th Cir.1990))). The Fifth Circuit itself has reinforced this sentiment. In *Yesh Music*, the Fifth Circuit held that "Rule 60(b)(6) relief will not be used to relieve a party from the free, calculated, and deliberate choices he has made." *Yesh Music v. Lakewood Church*, 727 F.3d 356, 363 (5th Cir. 2013); *see S.E.C. v. Conradt*, 309 F.R.D. 186, 187-88 (S.D.N.Y. 2015) (refusing to utilize Rule 60(b)(6) to vacate defendants' settlement agreements that resulted in consent judgments after defendants' guilty pleas in a parallel proceeding were vacated).

15. Here, the "litigation stay provision" was integral to the parties' decision to enter the Settlement Agreement. Additionally, the Settlement Agreement itself represented the successful resolution of years-long disputes and provided Daugherty—and frankly, Highland—with clarity that further litigation would not occur until the IRS made its final determination. It also provided Highland (and its employees and representatives) with a reduction in liability based on Daugherty's claims. Highland itself previously lauded the Settlement Agreement as "fair and reasonable" and the Court found "the Settlement Agreement [to be] fair and equitable." Main Case Doc. No. 3088 at ¶¶ 41-48; Main Case Doc. No. 3298 at 2.

16. It is fundamentally unfair for Highland to rewrite the deal and file an adversary proceeding that it contractually promised not to bring against Daugherty until conclusion of the IRS audit. In fact, the Settlement Agreement's terms establish that the parties clearly anticipated the possibility that the IRS audit could drag on for years. Highland could have negotiated certain provisions or caveats that would have addressed the current situation (e.g., Highland could have insisted that the Settlement Agreement have a temporal "cap" on the amount of time it would wait for the IRS to conclude the audit). It did not. Instead, Highland simply reserved all defenses and

agreed that "any litigation…shall be stayed" until the IRS reaches a final determination. Ex. A. at ¶ 9.

17. The Court should not have rewritten the parties' negotiated Settlement Agreement and should have denied Highland's 60(b)(6) cross-motion. The Settlement Agreement was in effect for over three years. The Court should not have used its inherent power to disturb a painstakingly negotiated Settlement Agreement between two sophisticated parties who each received and gave certain concessions to reach a final agreement. Because of this, Daugherty has a strong likelihood of success on the merits on his appeal. The Court should stay the adversary proceeding and the enforcement of the September 4, 2025 Order pending appeal.

II. There is a significant risk of irreparable injury if the Court does not grant the stay.

18. If the Court does not grant the stay, Daugherty is at risk of irreparable injury. Courts consistently find that the irreparable harm requirement is satisfied when an appellant's rights would be vitiated absent a stay. For example, the Southern District of New York—in issuing a stay pending appeal of a bankruptcy court's confirmation order—emphasized that the loss of appellate review is a "quintessential form of prejudice." *ACC Bondholder Grp. v. Adelphia Commc'ns Corp. (In re Adelphia Commc'ns Corp.)*, 361 B.R. 337, 448 (S.D.N.Y. 2007) (citing *In re Country Squire Assocs. of Carle Place, L.P.*, 203 B.R. 182, 183 (2nd Cir. BAP 1996)). There, the district court concluded that "where the denial of a stay pending appeal risks mooting any appeal of significant claims of error, the irreparable harm requirement is satisfied." *Id*. The Northern District of Texas reached a similar conclusion in *In re Texas Equipment Co., Inc.* There, the court explained that unless the party obtained the stay of a sale order, there would be no effective remedies on appeal. 283 B.R. 222, 228 (Bankr. N.D. Tex 2002); *see also Manges v. Seattle-First Nat'l Bank (In re Manges)*, 29 F.3d 1034 (5th Cir. 1994).

19. Absent a stay pending appeal, Daugherty will have to litigate Highland's claims against him without any indication from the IRS whether it plans to increase, decrease, or leave untouched Highland's 2008 tax liability, thus affecting Daugherty's Reserved Claim. As the Court knows, litigating this dispute without finality from the IRS is pointless. The IRS has not made a "final determination" for Highland's 2008 tax year; that much is clear. Moreover, both Daugherty and Highland recognized that fact by signing the Settlement Agreement ***after*** the IRS issued a letter in February 2018, which is one of the ways that Highland now disingenuously argues that a final audit has already occurred. Doc. No. 9 at ¶ 16.

20. This adversary proceeding turns on the IRS's final determination. No matter the outcome, one thing is certain: it all depends on what the IRS does as it finalizes its audit of Highland's 2008 tax year. If the Court allows litigation to commence and grants Highland's requested relief of striking Daugherty's claim—only for the IRS to later determine that Highland had additional tax liability, thus validating Daugherty's claim—the harm would be irreparable. By that time, Highland will have fully consummated its plan of confirmation and Daugherty will have no recourse.

III. There would be no harm to other parties if the Court granted the stay.

21. If the Court entered a stay, other parties would suffer no prejudice. To the contrary, a stay would benefit Highland and other parties because it would avoid costly and time-consuming litigation that could prove to be an empty gesture depending on the results of the IRS' audit.

22. Moreover, there would be no harm to Highland because the stay is exactly what Daugherty and Highland agreed to in the Settlement Agreement. The stay is also what this Court approved. And because the IRS has not concluded its audit, there is no live controversy for Highland to litigate. Even if the stay causes a delay in the closure of Highland's bankruptcy case,

the tradeoff is worthwhile. The Court should prioritize the enforcement of Settlement Agreements and its judicial approval of same, especially when the side opposing the stay will not suffer discernable prejudice.

IV. Granting the stay would further judicial economy and serve the public interest because it would give litigants confidence that courts will enforce settlement agreements.

A. If the Court grants the stay, it will support judicial economy.

23. A stay of the September 4, 2025 Order would further judicial economy. Federal courts should seek to avoid piecemeal appeals. *See PYCA Indus., Inc. v. Harrison Cnty. Waste Water Mgmt. Dist.*, 81 F.3d 1412, 1421 (5th Cir. 1996). In *In re Perry*, the Eastern District of Louisiana reiterated that principle and denied a motion that would have likely caused two separate appeals – one on damages and one on liability. Nos. 23-5265, 23-5266, 2024 WL 68257, at *3 (E.D. La. Jan. 5, 2024). The Fifth Circuit itself has echoed this principle in other contexts. *See Morrison v. W. Builders of Amarillo, Inc. (In re Morrison)*, 555 F.3d 473, 479 (5th Cir. 2009) (citing judicial economy as a reason not to force litigants to pursue separate litigation for a judgment after a bankruptcy court makes a nondischargeability determination). The Bankruptcy Court for the District of Delaware's language—in deciding to stay an entire adversary proceeding pending appeal of an order denying a 12(b)(6) motion—is instructive on the issue of judicial economy:

> First, there are not thousands of parties to this action, there are essentially only two parties (and their respective related entities) involved in this adversary proceeding. Second, the different practices and procedures in bankruptcy cases are founded on the concept that automatically staying a bankruptcy case upon the appeal of a specific issue would prevent the bankruptcy court from addressing the numerous other issues in the case and could adversely affect thousands of other creditors. In this case, there are no significant other issues that depend on the outcome of this adversary proceeding. The Debtors' Plan has been confirmed and there are few administrative matters pending. Further, the Defendants assert that their appeal only automatically stays the adversary proceeding, not the entire bankruptcy case. In

> these respects, the Court agrees with the Defendants' arguments that this adversary proceeding is more akin to a civil action in district court than to a typical bankruptcy matter.

In re Nu Ride, Inc., 666 B.R. 510, 519 (Bankr. D. Del. Dec. 13, 2024).

Simply put, because the adversary proceeding was a narrow dispute that had little effect on the main bankruptcy case, staying the entire proceeding pending appeal would not hinder judicial economy in any meaningful way.

24. Although it is not an express factor in a stay determination, the Court should not ignore judicial economy. Here, the enforceability of the "litigation stay provision" in the Settlement Agreement is the critical issue on appeal. As Daugherty contends, litigation between him and Highland should not ensue until the IRS makes a "final determination" on Highland's 2008 audit. If that provision is determined to control, then any litigation that this Court allows to commence will be pointless and, importantly, voidable, wasting the parties' and the Court's time and resources. The parties would then have to re-litigate those exact issues with the benefit of the IRS' final determination. Thus, judicial economy weighs in favor of granting Daugherty's motion for stay pending appeal.

B. If the Court grants the stay, it will greatly serve the public interest.

25. The public interest will also be served by granting a stay because the Court—and all litigants in this circuit—should value the importance of binding settlement agreements. At their core, settlement agreements are contracts. And once they are executed, they "cannot be repudiated by either party and will be summarily enforced." *United States v. City of New Orleans*, 731 F.3d 434, 439 (5th Cir. 2013) (citing *White Farm Equip. Co. v. Kupcho*, 792 F.2d 526, 530 (5th Cir. 1986)). As the Texas Supreme Court said, "[a] deal is, of course, a deal." *Chalker Energy Partners III, LLC v. Le Norman Operating LLC*, 595 S.W.3d 668, 669 (Tex. 2020) (emphasizing the many ways in which an agreement will be binding under Texas law). Moreover, the Firth Circuit has

held that when analyzing a signed settlement agreement, the presence of sophisticated parties and skilled counsel is a factor when determining whether there are ambiguities that would allow the inclusion of extrinsic evidence in the analysis. *Lubrisol Corp. v. Exxon Corp*., 871 F.2d 1279, 1284 (5th Cir. 1989).

26. Here, all signs point to the Settlement Agreement being entirely enforceable as drafted. It was negotiated by sophisticated parties with assistance of counsel who actively participated in give-and-take concessions. Its language—"[a]ny litigation by and between the Debtor and Daugherty…shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute"—is clear and unambiguous. *See* Ex. A at ¶ 9. And this Court approved it.

27. Daugherty acknowledges that this Court retains power under Rule 60(b)(6) to modify the terms of an order or judgment. But as the cases interpretating that rule put forward, the Court should only exercise that power in the most unique circumstances and only to truly "do substantial justice." *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 401 (5th Cir. 1981). Without confidence that courts will enforce binding settlement agreements, litigants will lose confidence in their ability to rely on the exchange of bargained-for concessions to resolve cases through resolution. The Court should not let that sentiment become commonplace.

WHEREFORE, Patrick Daugherty respectfully requests that the Court (a) enter an order granting the immediate motion, (b) stay the adversary proceeding captioned as *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty (In re Highland Capital Management, L.P.)*, Case No. 19-34054 (SGJ), Adversary No. 25-03055, (c) stay the enforcement of the Court's September 4, 2024 Order, and (d) grant such other and further relief as may be just and proper.

Dated: September 26, 2025.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 26th day of September 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
jpomerantz@pszjlaw.com
John A. Morris
jmorris@pszjlaw.com
Gregory V. Demo
gdemo@pszjlaw.com
Hayley R. Winograd
hwinograd@pszjlaw.com
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

HAYWARD PLLC
Melissa S. Hayward
MHayward@HaywardFirm.com
Zachery Z. Annable
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Suite 106
Dallas, Texas 75231

Counsel for Highland Capital Management, L.P.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT A

Final Execution Copy

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement") is made and entered into by and between (i) Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), and (ii) Patrick Hagaman Daugherty ("Daugherty" and together with HCMLP, the "Parties," and individually as a "Party"). This Settlement provides for the treatment of certain claims asserted by Daugherty against the Debtor, and for the Parties to take certain other specified actions in settlement thereof.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, the Debtor's chapter 11 case (the "Bankruptcy") is pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, on February 2 and 3, 2021, the Court conducted a confirmation hearing with respect to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) [Docket No. 1808] (the "Plan");

WHEREAS, on February 8, 2021, the Court rendered an opinion from the bench in which it confirmed the Plan [Docket No. 1924];

WHEREAS, on February 22, 2021, the Court issued an order confirming the Plan [Docket No. 1943];

WHEREAS, on August 11, 2021, the Effective Date (as defined in the Plan) occurred [Docket No. 2700];

WHEREAS, Daugherty is a former employee and limited partner of the Debtor and has

served in other positions with affiliates and former affiliates of the Debtor;

WHEREAS, at the time of his resignation, Daugherty owned 19.1% of the preferred units of Highland Employee Retention Assets LLC ("HERA"), an employee deferred compensation vehicle managed by the Debtor and Highland ERA Management, LLC ("ERA") and contends that he owned or had the right to own all of the preferred units of HERA;

WHEREAS, prior to his resignation from HCMLP, Daugherty was awarded units of HERA, which vehicle owned interests in Restoration Capital Partners, LP ("RCP"), an HCMLP managed private equity fund, and other investments;

WHEREAS, in April 2012, the Debtor commenced an action against Daugherty in Texas state court (the "Texas Action"), and Daugherty subsequently asserted counterclaims for breach of contract and defamation, and third-party claims against HERA and others;

WHEREAS, after a three-week trial, the jury returned a verdict partially in favor of the Debtor, but Daugherty prevailed on his claims against the Debtor and James Dondero ("Dondero") for defamation with malice and a third-party claim against HERA and was awarded damages of $2.6 million against HERA, plus prejudgment and post-judgment interest at 5% (the "HERA Judgment");[1]

WHEREAS, in July 2017, after being unable to collect on the HERA Judgment, Daugherty commenced an action against the Debtor, Dondero, HERA, and ERA Management in the Delaware Chancery Court (the "Delaware Court"), in a case captioned *Daugherty v. Highland Capital Management, L.P., et al.*, C.A. No. 2017-0488-MTZ, for fraudulent transfer, promissory estoppel, unjust enrichment, indemnification, and fees on fees (the "Highland Delaware Case");

[1] The Debtor prevailed on its claims against Mr. Daugherty for breach of contract and breach of fiduciary duty for non-monetary damages and obtained an award of $2.8 million in attorney's fees. The HERA Judgment was affirmed on appeal on December 1, 2016.

WHEREAS, the Delaware Court in the Highland Delaware Case (i) found that the Dondero-related defendants improperly withheld dozens of documents in discovery on privilege grounds, and (ii) ruled that there was "a reasonable basis to believe that a fraud has been perpetrated" such that the Delaware Court applied the "crime-fraud exception" to the attorney-client privilege assertion, and such rulings have not been overturned;

WHEREAS, Daugherty asserts that such withholding of documents and the failure to search defendants' and their employees personal electronic devices for stored documents and texts as well as other emails and domain names such as sasmgt.com and gmail.com which were in their possession and control and to provide required discovery injured him by undermining his attempts to build an evidentiary record to support his claims against the Debtor and the other defendants in the Highland Delaware Case;

WHEREAS, on October 14, 2019, the Highland Delaware Case proceeded to trial and two days later, on October 16, 2019, before the completion of the trial and before the Delaware Court ruled on Daugherty's and the Debtor's cross-motions for summary judgment regarding indemnification and fees on fees, the Debtor filed for bankruptcy;

WHEREAS, on December 1, 2019, Daugherty filed a separate lawsuit in the Delaware Court, captioned *Daugherty v. Dondero, et al.*, C.A. No. 2019-0956-MTZ, against Dondero, HERA, ERA, Hunton Andrews Kurth LLP ("Andrews Kurth"), Marc Katz ("Katz"), Michael Hurst ("Hurst"), the Debtor's Chief Compliance Officer, the Debtor's then in-house counsel (Isaac Leventon ("Leventon")), and the Debtor's then general counsel (Scott Ellington ("Ellington")), for conspiracy to commit fraud, among other claims (the "HERA Delaware Case" and together with the Highland Delaware Case, the "Delaware Cases");

WHEREAS, on April 1, 2020, Daugherty filed a general, unsecured, non-priority claim

against the Debtor in the amount of at "least $37,483,876.59," and such claim was denoted by the Debtor's claims agent as Proof of Claim No. 67 ("Proof of Claim No. 67");

WHEREAS, on April 6, 2020, Daugherty filed a general, unsecured, non-priority claim against the Debtor in the amount of at "least $37,482,876.62" that superseded Proof of Claim No. 67 and that was denoted by the Debtor's claims agent as Proof of Claim No. 77 ("Proof of Claim No. 77");

WHEREAS, on August 31, 2020, the Debtor commenced an adversary proceeding against Daugherty by filing a complaint (the "Complaint") in which the Debtor: (1) objected to Proof of Claim No. 77 on various grounds (the "Claim Objection"), and (2) asserted a cause of action for the subordination of part of Daugherty's claim pursuant to section 510(b) of the Bankruptcy Code. Adv. Proc. No. 20-03107 (the "Adv. Proc.") [Adv. Docket No. 1] (the "Adversary Proceeding");

WHEREAS, on September 29, 2020, Daugherty filed his answer to the Complaint [Adv. Docket No. 8] (the "Answer");

WHEREAS, on September 24, 2020, Daugherty filed his *Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay* [Docket No. 1099] (the "Stay Motion") pursuant to which he sought to sever the Debtor from the Highland Delaware Case and then consolidate the remaining claims in the Highland Delaware Case into the HERA Delaware Case and proceed with one case against the non-Debtor parties;[2]

WHEREAS, on October 23, 2020, Daugherty filed a motion seeking leave to amend his Proof of Claim No. 77 [Docket No. 1280] (the "POC Amendment Motion"). The amended proof

[2] On October 8, 2020, the Debtor commenced a second adversary proceeding against Daugherty (the "Second Adversary Proceeding"), seeking to enjoin him from prosecuting the Delaware Cases. Adv. Proc. 20-03128 ("2d Adv. Proc.") [2d Adv. Proc. Docket No. 1]. On January 29, 2021, the parties filed a Settlement that resolved the Second Adversary Proceeding, and the Second Adversary Proceeding was subsequently dismissed with prejudice. [2d Adv. Proc. Docket No. 12].

of claim attached to the POC Amendment Motion increased Daugherty's general, unsecured, non-priority claim against the Debtor to the amount of at "least $40,410,819.42" and sought to supersede Proof of Claim No. 67 and Proof of Claim No. 77;

WHEREAS, on October 23, 2020, Daugherty filed his *Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Motion*, seeking for his Claim to be temporarily allowed for voting purposes in this amount of $40,410,819.42 [Docket No. 1281] (the "3018 Motion");

WHEREAS, on November 3, 2020, the Court granted the Stay Motion [Docket No. 1327];

WHEREAS, the Debtor opposed the 3018 Motion, and after conducting an evidentiary hearing for the limited purpose of determining the 3018 Motion, the Court entered an order temporarily allowing Daugherty's Claim only for voting purposes in the amount of $9,134,019 [Docket No. 1474];

WHEREAS, on December 10, 2020, the Court entered an order [Docket No. 1533] granting the POC Amendment Motion, and Daugherty was permitted to file an amendment to his proof of claim. On December 23, 2020, Daugherty filed an amended proof of claim, designated by the Debtor's claim agent as Proof of Claim No. 205 ("Proof of Claim No. 205" or the "Daugherty Claim"). Proof of Claim No. 205 superseded Proof of Claim No. 77 and increased the amount of the Daugherty's Claim to $40,710,819.42;

WHEREAS, on November 30, 2020, Daugherty filed his Motion to Lift the Automatic Stay (the "Lift Stay Motion") [Docket No. 1491] seeking to lift the automatic stay to allow him to finish his trial in the Delaware Court and liquidate his claims. The Debtor opposed the Lift Stay Motion, and after a hearing was held on December 17, 2020, the Court denied the relief requested in the Lift Stay Motion [Docket No. 1612];

WHEREAS, except with respect to the Reserved Claim (as defined below), the Parties have agreed to settle and resolve all claims and disputes between them and their respective current affiliates, managed entities, and employees, including the Daugherty Claim, on the terms set forth in this Settlement:

AGREEMENT

NOW, THEREFORE, after good-faith, arms-length negotiations, and in consideration of the foregoing, it is hereby stipulated and agreed that:

1. Allowed Claims: In full satisfaction of the entirety of the Daugherty Claim against the Debtor and HCMLP Released Parties (defined below), excluding the Reserved Claim, Daugherty shall receive (a) an allowed general unsecured Class 8 claim in the amount of $8,250,000; (b) an allowed subordinated general unsecured Class 9 claim in the amount of $3,750,000; and (c) a one-time lump sum cash payment in the amount of $750,000 to be paid within 5 business days of Bankruptcy Court approval of this Settlement Agreement.

2. Recovery: The Debtor makes no representation or warranty as to the recovery on Class 8 or Class 9 claims under the Plan.

3. Observation Access: As soon as practicable following entry of an order of the Bankruptcy Court approving this Settlement, HCMLP shall use reasonable efforts to petition the Claimant Trust Oversight Board[3] to permit Daugherty to have access as an observer to meetings of the Claimant Trust Oversight Board, subject to policies, procedures, and agreements applicable to other observers of the Claimant Trust Oversight Board, including policies, procedures, and agreements related to confidentiality and common interest. Whether Daugherty will be granted observer access and any continuing observer access is and will remain at the sole discretion of the

[3] The Claimant Trust Oversight Board refers to the Oversight Board as defined in the August 11, 2021 Highland Claimant Trust Agreement establishing the Claimant Trust, as defined therein.

Claimant Trust Oversight Board.

4. RCP Track Record: HCMLP shall use reasonable efforts to provide Daugherty with data constituting the investment performance track record of RCP during Daugherty's tenure at HCMLP. Daugherty shall not be entitled to any compensation with respect to the performance of RCP. HCMLP makes no representations or warranties regarding such data and takes no responsibility with respect to the use of such data for any purposes.

5. Daugherty Releases: Except as specifically provided in this paragraph 5, and to the maximum extent permitted by applicable law, the Debtor, on behalf of itself and each of the HCMLP Entities and HCMLP Parties (as those terms are defined in paragraph 6 below), hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue Daugherty, his successors, affiliates, and assigns, (and in each such category to include their respective advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, and designees) (collectively, the "Daugherty Additional Release Parties" and together with Daugherty, the "Daugherty Released Parties"), in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, or the Delaware Cases, all existing as of the date hereof (collectively, the "HCMLP Released Claims"); provided, however, that such release shall not

apply with respect to any and all defenses that HCMLP or the HCMLP Entities may have to the Reserved Claim or the Reserve Motion (as those terms are defined herein) or Daugherty's obligations under this Settlement. For the avoidance of doubt, the HCMLP Released Claims include all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

6. HCMLP Releases: Except as specifically provided in this paragraph 6, and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Released Parties, hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (a)(i) HCMLP; (ii) Strand Advisors Inc.; (iii) the Claimant Trust; (iv) the Claimant Trust Oversight Board; (v) the Highland Litigation Sub-Trust; (vi) the Highland Indemnity Trust; (vii) any entity of which greater than fifty percent of the voting ownership is held directly or indirectly by HCMLP as of the date hereof and any entity otherwise directly or indirectly controlled by HCMLP as of the date hereof,; and (viii) any entity managed by either HCMLP or a direct or indirect subsidiary of HCMLP, including Highland Restoration Capital Partners, L.P., Highland Restoration Capital Partners Offshore, L.P., Highland Restoration Capital Master, L.P. (and all of their respective general partners, feeder funds, managers, and affiliates) (the foregoing (a)(i) through (a)(viii) the "HCMLP Entities"), and (b) with respect to each such HCMLP Entity, such HCMLP Entity's respective current (meaning employed in their respective roles as of the date hereof) advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders (but not the shareholders of Strand Advisors Inc.), agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns, except as expressly set forth below (the "HCMLP Parties," and together with the

HCMLP Entities, the "HCMLP Released Parties"),[4] in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, or the Highland Delaware Case (collectively, the "Daugherty Released Claims"); provided, however, that such release shall not apply with respect to the Reserved Claim or the Reserve Motion (as those terms are defined in paragraph 9 below) or HCMLP's obligations under this Settlement. This release expressly applies to all current employees of HCMLP as the Reorganized Debtor (as defined in the Plan), in their capacities as such. For the avoidance of doubt, the Daugherty Released Claims includes all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

7. Reservation of Daugherty Rights: Notwithstanding anything contained herein to the contrary, the term HCMLP Released Parties shall not include (a) NexPoint Advisors, L.P. (or any of its subsidiaries and employees, advisors, or agents), (b) the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and any of their respective employees, advisors, or agents), (c) NexBank, SSB (or any of its subsidiaries, employees, advisors, or agents), (d) James Dondero or any trust in which Dondero or any of his family members are a trustee or beneficiary (or any trustee acting for such trust), including but not limited to Hunter

[4] The Daugherty Additional Released Parties and the HCMLP Released Parties are collectively referred to as the "Additional Released Parties."

Mountain Investment Trust, The Get Good Trust, Dugaboy Investment Trust, SLHC Investment Trust, (e) HERA (subject to paragraph 8 below), (f) ERA (subject to paragraph 8 below), (g) Grant Scott, (h) Mark Okada and any trust in which Mark Okada or any of his family members are a beneficiary (or any trustee acting for such trust in their respective capacities), (i) Ellington, (j) Leventon, (k) Katz, (l) Hurst, (m) Andrews Kurth, or (m) any other former employee (as of the date hereof) of the HCMLP Released Parties.

8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

10. Current HCMLP Employees: The HCMLP Parties set forth on **Appendix A** hereto are currently employed by the Debtor are HCMLP Released Parties. By executing a copy of this Settlement and delivering it to Daugherty, each of the persons on Appendix A agrees not to sue, attempt to sue, or threaten or work with or assist any entity or person to sue, attempt to sue, or threaten any Daugherty Released Party on or in connection with any claim or cause of action arising prior to the date of this Settlement.

11. Dismissal and Motions in Other Actions. Within ten business days after approval of this Settlement by the Bankruptcy Court, the Parties shall take all steps necessary (a) to dismiss with prejudice (i) the Highland Delaware Case, as against the Debtor and any HCMLP Released Party, and (ii) the HERA Delaware Case, as against every HCMLP Released Party, (b) to file an agreed motion and proposed order to partially vacate the final judgment entered against Daugherty

in the Texas Action, (c) withdraw HCMLP's objection to the Daugherty motion to recuse in the Texas Action, and (d) to dismiss the Adversary Proceeding with prejudice. The parties shall file the foregoing motions and withdrawals substantially in the form of the documents annexed hereto as **Exhibit B**.

12. Additional Third Party Claims Discovery: The Debtor (a) shall accept service of any subpoenas via email served by Daugherty in connection with the Delaware Cases on behalf of itself, the HCMLP Entities, the HCMLP Parties (but only in their capacity as employees of HCMLP); and (b) acknowledge and consent to the jurisdiction of the Delaware Chancery Court for purposes of enforcing any such subpoenas, subject in all respects to the rights that the HCMLP Entities and HCMLP Parties to defend the requested production, if any.

13. Settlement of Third Party Claims: Daugherty shall not settle any claims or causes of action against any current or former director, officer, employee, agent or representative of HCMLP or Strand Advisors Inc. (collectively, the "Potentially Indemnified Parties") to the extent such claims have been brought or could have been brought against any Potentially Indemnified Parties, if any such settlement designates, defines or describes the settled claims as arising out of or relating to simple negligence or as having otherwise been within the scope of employment of the Potentially Indemnified Party.

14. Claims Register: As soon as practicable after the Settlement Effective Date, HCMLP shall instruct the claims agent in the Debtor's chapter 11 case to adjust the claims register in accordance with this Settlement.

15. Daugherty Representations: Daugherty represents and warrants to each of the HCMLP Released Parties that (a) he has full authority to release the Daugherty Released Claims and has not sold, transferred, or assigned any Daugherty Released Claim to any other person or

entity and that (b) no person or entity other than Daugherty has been, is, or will be authorized to bring, pursue, or enforce any Daugherty Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) Daugherty.

16. HCMLP Representations: Each of HCMLP and each HCMLP Released Party who has signed this Settlement represents and warrants to Daugherty that (a) he, she or it has not sold, transferred, pledged, assigned or hypothecated any HCMLP Released Claim to any other person or entity and (b) he, she, or it has full authority to release any HCMLP Released Claims that such HCMLP Released Party personally has against Daugherty.

17. Additional HCMLP Representations: HCMLP represents and warrants that it is releasing the HCMLP Released Claims on behalf of the HCMLP Entities to the maximum extent permitted by any contractual or other legal rights HCMLP possesses. To the extent any of the HCMLP Entities dispute HCMLP's right to release the HCMLP Released Claims on behalf of any of the HCMLP Entities, HCMLP shall use commercially reasonable efforts to support Daugherty's position, if any, that such claims were released herein. For the avoidance of doubt, HCMLP will have no obligations to assist Daugherty under this paragraph if HCMLP has been advised by external counsel that such assistance could subject HCMLP to liability to any third party or if such assistance would require HCMLP to expend material amounts of time or money. HCMLP shall not argue in any forum that the non-signatory status of any of the HCMLP Entities to this Settlement shall in any way affect the enforceability of this Settlement vis-à-vis any of the HCMLP Entities. The Parties agree that all of the HCMLP Entities are intended third-party beneficiaries of this Release.

18. HCMLP Covenant: HCMLP and the HCMLP Entities covenant and agree that they will not pursue or seek to enforce any injunctions entered in the Texas Action against

Daugherty.

19. Entire Agreement; Modification: This Settlement contains the entire agreement between the Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between the Parties. This Settlement may not be modified other than by a signed writing executed by the Parties.

20. Bankruptcy Court Approval: Notwithstanding anything to the contrary contained herein, the effectiveness of HCMLP and the Claimant Trust's execution of this Settlement shall be subject to entry of an order of the Bankruptcy Court approving this Settlement. HCMLP shall take all steps necessary to file with the Bankruptcy Court a motion for an order approving this Settlement pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code (the "Motion"). The parties agree to cooperate in the preparation and prosecution of the Motion which shall be filed no later than 5 business day after execution of this Settlement, unless such time is extended by mutual agreement.

21. Counterparts: This Settlement may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument and shall be effective against a Party or Additional Released Party upon approval of the Settlement by the Bankruptcy Court.

22. Governing Law; Jurisdiction: This Settlement will be exclusively governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles, and all claims relating to or arising out of this Settlement, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of Delaware, excluding Delaware's conflicts of law principles. The Bankruptcy Court will retain exclusive jurisdiction over all disputes relating to this Settlement.

23. Headings: Paragraph headings included herein are for convenience and shall have no impact whatsoever on the meaning or interpretation of any part of this Settlement.

[Remainder of page intentionally left blank]

In witness whereof, the parties hereto, intending to be legally bound, have executed this Settlement as of the day and year set forth below:

Dated: 11-24-21

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____

Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND CLAIMANT TRUST

By: _____

Name: James P. Seery, Jr.
Title: Claimant Trustee

PATRICK HAGAMAN DAUGHERTY

Dated: 11/22/21

By: _____

Name: Patrick Hagaman Daugherty

EXHIBIT A

HERA RELEASE AGREEMENT

This HERA Release Agreement ("HERA Release Agreement") is entered into as of November 21, 2021 by and among Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), Patrick Hagaman Daugherty ("Daugherty"), Highland Employee Retention Assets, LLC ("HERA") and Highland ERA Management, LLC ("ERA" and together with HCMLP, and HERA, the "Parties," and individually as a "Party").

WHEREAS, reference is hereby made to the Settlement Agreement (the "Settlement") of even date herewith and attached hereto made and entered into by and between the Debtor, the Highland Claimant Trust, and Daugherty.

WHEREAS, the Settlement settles all of Daugherty's claims against the HCMLP Released Parties, including all claims against the HCMLP Released Parties relating to transfers of assets from HERA.

WHEREAS, the Settlement includes, among other things, the transfer by HCMLP to Daugherty of HCMLP's interests in HERA and ERA.

WHEREAS, under the Settlement such transfer is being made without any liability to any of the HCMLP Released Parties of any type and is conditional on the full release of, and covenant not to sue, each of the HCMLP Released Parties, by and from HERA, ERA, Daugherty and the Daugherty Released Parties.

WHEREAS, neither HERA nor ERA filed proofs of claim in the Bankrupty and have no claims against HCMLP.

WHEREAS, out of an abundance of caution to confirm that HERA, ERA, Daugherty, and the Daugherty Released Parties have no claims against the HCMLP Released Parties, this HERA Release Agreement is being entered into contemporaneously with the Settlement and constitutes an

essential part thereof.

WHEREAS, capitalized terms used herein but not otherwise defined herein have the respective meanings set forth in the Settlement.

NOW, THEREFORE, in consideration of the entry into of the Settlement, the transfer of the equity interests in HERA and ERA to Daugherty in accordance with the Settlement, and for other good and valuable consideration, including the provisions set forth herein, the parties hereto further agree as follows:

1. Upon entry of an order of the Bankruptcy Court approving this Settlement and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Additional Release Parties, together with each of HERA and ERA (Daugherty, the Daugherty Additional Release Parties, HERA and ERA shall be collectively referred to herein as the "HERA Releasing Parties"), each hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, any of the HCMLP Released Parties for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, Highland Delaware Case, or the HERA Delaware Case (collectively, "Claims"), in each case that in any way arise from or otherwise in any way relate to HERA or ERA, including, without limitation, any actual or potential claims, whether known or unknown, in any way related to or

arising out of the formation, management, operation or assets of HERA, ERA or any of their respective predecessors or successors, including the transfer of any assets to or from HERA or ERA, it being understood that all remaining assets of HERA have been transferred to HCMLP prior to the date hereof, and in addition to the releases set forth above, each of the HERA Releasing Parties irrevocably waives and releases and covenants not to sue with respect to any Claims against any of the HCMLP Released Parties in any way related to any such transfers or assets, whether *in personam* with respect to the HCMLP Released Parties or *in rem* with respect to any of their assets (collectively, the "HERA Released Claims") or any other Disposition.

2. This Release constitutes a part of, and is supplemental to, the provisions of the Settlement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

In witness whereof, the parties hereto, intending to be legally bound, have executed this HERA Release Agreement as of the date set forth above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

PATRICK HAGAMAN DAUGHERTY

By: _____
Name: Patrick Hagaman Daugherty

HIGHLAND EMPLOYEE RETENTION ASSETS, LLC

By: Highland ERA Management, LLC, its manager

By: Highland Capital Management, LP

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND ERA MANAGEMENT, LLC

By: _____
Name: James P. Seery, Jr.
Title: Authorized Signatory

EXHIBIT B

CAUSE NO. 12-04005		
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**IN THE DISTRICT COURT OF**
Plaintiffs,	§	
v.	§	
PATRICK DAUGHERTY,	§	
Defendant and Counter-Plaintiff,	§	**DALLAS COUNTY, TEXAS**
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	
Third-Party Defendants.	§	
	§	**68th JUDICIAL DISTRICT**

AGREED MOTION TO PARTIALLY VACATE THE FINAL JUDGMENT DATED JULY 14, 2014

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Highland Capital Management, LP ("Highland") and Defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties") file this *Agreed Motion to Partially Vacate the Final Judgment dated July 14, 2014* (the "Motion"), and respectfully show the following:

1. On July 14, 2014, this Court entered a *Final Judgment* (the "Judgment") that, among other things, granted Highland's motion for injunctive relief against Daugherty.

2. The Judgment was amended on March 23, and June 23, 2017.

3. On October 16, 2019, filed a petition under chapter 11 in the United States Bankruptcy Court for the District of Delaware ("Highland's Bankruptcy Case"). On October 24,

2019, as a result of the commencement of Highland's Bankruptcy Case, the Supreme Court of Texas issued an order abating a related case that Daugherty had brought in that court, Case No. 19-0758. Highland's Bankruptcy Case was subsequently transferred to the United States Bankruptcy Court for the Northern District of Texas.

4. Daugherty asserted certain claims against Highland in Highland's Bankruptcy Case. The Parties have fully and finally resolved their disputes pursuant to a settlement agreement (the "Settlement Agreement") reached in the Highland Bankruptcy Case pursuant to which, among other things, (a) all of Daugherty's known and unknown claims against each of the Highland Released Parties (as those terms are defined in the Settlement Agreement) are resolved, and (b) this Motion seeking the *vacatur* of certain provisions of the Judgment specifically set forth below is being filed.

5. Highland and Daugherty hereby agree and stipulate that the Court has plenary power to issue an order granting this Motion because the Court retained authority to enforce the permanent injunction rendered in the Judgment, and that changed circumstances have now arisen such that the Court should dissolve the permanent injunction. Highland and Daugherty further agree and stipulate that this Motion shall be treated as an agreement of the Parties pursuant to Texas Rule of Civil Procedure 11, and is fully enforceable. *See Coale v. Scott*, 331 S.W.3d 829, 831-32 (Tex. App.—Amarillo 2011, no pet.) ("Irrespective of whether a trial court lost its plenary jurisdiction over its judgment, the trial court's authority to approve a Rule 11 agreement does not depend on whether it has such jurisdiction.").

6. Highland and Daugherty agree that the following portions of the Judgment shall be vacated pursuant to their settlement in the Highland Bankruptcy:

a. The second full paragraph on Page 2 of the Judgment, which begins "The Court, after considering the jury's findings regarding Daugherty's breaches of contract and breaches of fiduciary duty . . .";

b. The permanent injunction rendered against Daugherty in the third full paragraph on Page 2 of the Judgment, which begins "It is therefore further ORDERED that Daugherty be and hereby is commanded to cease and desist from . . .";

c. The fourth and fifth full paragraphs on Page 2 of the Judgment awarding Highland a monetary judgment against Daugherty for reasonable and necessary attorney's fees, as well as post-judgment interest on that award[1]; and

d. The jury's answers to Questions 1, 2, 5, 6, 9 and 12 in the Verdict, which was attached as Exhibit 1 to the Judgment.

7. Highland and Daugherty further agree that, as a result of the vacation of the permanent injunction in the Judgment, Highland hereby withdraws any pending motions to show cause or motions for contempt against Daugherty that allege Daugherty violated or is violating the permanent injunction. Highland also agrees not to seek to enforce the permanent injunction in any manner in the future.

[1] Daugherty previously satisfied the monetary judgment awarded to Highland, and Highland filed a release of the monetary judgment. Although Highland and Daugherty have agreed to vacate the monetary judgment awarded to Highland, Daugherty waives and relinquishes any right or claim to recover any amount previously paid in satisfaction of the Judgment and Highland shall not be required to reimburse Daugherty for his prior satisfaction of the monetary judgment. To the extent Daugherty is entitled to indemnification for any liabilities, losses, and damages allegedly incurred by him for actions taken in connection with Highland's business, including the liabilities Daugherty allegedly incurred in connection with this action and the Judgment, such indemnification claims have been fully and finally satisfied and resolved under the Settlement Agreement.

8. Concurrent with the filing of this Motion, Daugherty will file a motion to dismiss his as-yet unfiled petition for review pending before the Supreme Court of Texas under Case No. 19-0758.

9. Highland and Daugherty further agree that any portions of the Judgment that are not specifically vacated pursuant to this Motion shall remain in full force and effect.

WHEREFORE, Highland and Daugherty pray that the Court grant this Motion in its entirety, and for all further relief, at law or in equity, the Court deems necessary.

Respectfully submitted,

GRAY REED & McGRAW LLP

By: */s/ Sonya D. Reddy*
ANDREW K. YORK
State Bar No. 24051554
E-mail: dyork@grayreed.com
SONYA D. REDDY
State Bar No. 24079188
E-mail: sreddy@grayreed.com

1601 Elm Street, Suite 4600
Dallas, Texas 75201
(214) 954-4135
(214) 953-1332 (Fax)

ATTORNEYS FOR PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been transmitted by electronic transmission to all counsel of record on February ___, 2021, as follows:

Marc D. Katz
Crystal J. Woods
DLA PIPER LLP (US)
1717 Main St., Suite 3700
Dallas, Texas 75201
214-743-4545 (Fax)
marc.katz@dlapiper.com
crystal.woods@dlapiper.com

Attorneys for Highland Capital Management, L.P.

Michael K. Hurst
A. Shonn Brown
Jonathan Childers
LYNN PINKER COX HURST, LLP
2100 Ross Ave., Suite 2700
Dallas, Texas 75201
(214) 981-3839 (Fax)
mhurst@lynnllp.com
sbrown@ lynnllp.com
jchilders@ lynnllp.com

Attorneys for Third-Party Defendants HERA, Patrick Boyce, and William Britain

/s/ Sonya D. Reddy
SONYA D. REDDY

APPENDIX A (signatures to follow)

1. James P. Seery, Jr.
2. Cameron Baynard
3. Nathan Burns
4. Timothy Cournoyer
5. Naomi Chisum
6. Stetson Clark
7. Sean Fox
8. Matthew Gray
9. Kristin Hendrix
10. David Klos
11. Vishal Patel
12. Thomas Surgent
13. Michael Throckmorton

BTXN 119 (rev. 03/19)

AUDIO / TRANSCRIPT ORDER

1. ORDER REQUEST: ☐ DUPLICATE OF AUDIO CD Recordings Only ☒ TRANSCRIPT	2. DATE OF ORDER: 9/29/2025	**FOR COURT USE ONLY DUE DATE:**	
3. NAME: Melanie Holmes	4. PHONE NUMBER: 972-755-7105	5. EMAIL ADDRESS: mholmes@haywardfirm.com	
6. MAILING ADDRESS: 10501 N. Central Expy., Ste. 106	7. CITY: Dallas	8. STATE: TX	9. ZIP CODE: 75231
10. CASE NUMBER: 25-03055	11. CASE NAME: Highland v. Daugherty	12. JUDICIAL OFFICIAL: Jernigan	13. DATE OF PROCEEDING: FROM: 09 / 04 / 2025
14. ORDER FOR: ☐ APPEAL	☐ BANKRUPTCY	☒ OTHER Adv. Proceeding	

15. ORDER:

	ORDINARY	7 DAY EXPEDITED	DAILY	HOURLY
A.	☐	☐	☐	☒

14 DAY EXPEDITED	3 DAY EXPEDITED
☐	☐

16. AUDIO/TRANSCRIPT REQUESTED Specify portion(s) and date(s) of proceeding(s):

PORTION(S)	PORTION(S)
☒ ENTIRE HEARING	☐ TESTIMONY (SPECIFY WITNESS)
☐ OPENING STATEMENT (PLAINTIFF)	
☐ OPENING STATEMENT (DEFENDANT)	
☐ CLOSING ARGUMENT (PLAINTIFF)	☐ VOIR DIRE
☐ CLOSING ARGUMENT (DEFENDANT)	☐ OTHER (SPECIFY)
☐ COURT RULING ONLY	

CERTIFICATION

By signing 17. & 18, I certify that I will pay all charges (deposit plus additional as specified by the assigned transcriber).

17. SIGNATURE: /s/ Melanie Holmes

18. DATE: 9/29/2025

COURT USE ONLY

A. PROCESSED BY:	B. TRANSCRIPT TO BE PREPARED BY:
PHONE NUMBER:	ADDRESS:
EMAIL ADDRESS:	TELEPHONE: EMAIL ADDRESS:

C. PARTY RECEIVED AUDIO:	DATE:	BY:	$31 FEE PAID:

DISTRIBUTION: COURT COPY ORDER RECEIPT ORDER COPY

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

In Re:	**Case No. 19-34054-sgj-11**
	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	Dallas, Texas
	September 4, 2025
	9:30 a.m. Docket
Reorganized Debtor.	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	**Adversary Proceeding 25-3055-sgj**
Plaintiff,	
	MOTION TO DISMISS ADVERSARY PROCEEDING [5]
v.	
PATRICK HAGAMAN DAUGHERTY,	CROSS-MOTION FOR RELIEF [10]
Defendant.	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE STACEY G.C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE.

WEBEX APPEARANCES:

For Highland Capital Management, L.P., Plaintiff:	John Morris PACHULSKI STANG ZIEHL & JONES, LLP 780 Third Avenue, 34th Floor New York, NY 10017-2024 (212) 561-7700
For Patrick Daugherty, Defendant:	Andrew K. York Joshua David Smeltzer GRAY REED & MCGRAW, LLP 1601 Main Street, Suite 4600 Dallas, TX 75201 (214) 954-4135
Recorded by:	Hawaii S. Jeng UNITED STATES BANKRUPTCY COURT 1100 Commerce Street, 12th Floor Dallas, TX 75242 (214) 753-2006

Transcribed by:

Kathy Rehling
311 Paradise Cove
Shady Shores, TX 76208
(972) 786-3063

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

DALLAS, TEXAS - SEPTEMBER 4, 2025 - 9:34 A.M.

THE CLERK: All rise. The United States Bankruptcy Court for the Northern District of Texas, Dallas Division, is now in session, the Honorable Stacey Jernigan presiding.

THE COURT: Good morning. Please be seated.

All right. We have a setting this morning in Highland versus Daugherty, Adversary 25-3055. We have both a motion to dismiss adversary of Mr. Daugherty and we have a motion -- the calendar says for leave -- it was actually a cross-motion for relief from a final order by Reorganized Highland.

All right. So we'll talk about sequence and all that. Who do I have appearing? First I see Mr. Morris on there. You're appearing for Reorganized Highland?

MR. MORRIS: Yes, Your Honor. Good morning. John Morris; Pachulski Stang Ziehl & Jones; for Reorganized Highland.

THE COURT: All right. Thank you.

So I see both Mr. York and Mr. Smeltzer. Which one of you will be representing Mr. Daugherty today?

MR. YORK: Good morning, Your Honor. Drew York. I will do the primary argument. Depending upon whether the Court has any questions concerning the IRS audit process and procedures, Mr. Smeltzer, who's one of our tax litigators, is prepared to address any of those questions for you.

THE COURT: All right.

MR. YORK: But otherwise, I'm the one that will be handling the argument.

THE COURT: Okay. These are the only parties we have on today's matter. Was there anyone else on the video wanting to appear?

(No response.)

THE COURT: All right. Well, have you all discussed -- I'm assuming we'll go first with Mr. Daugherty's argument since it's the first-filed main motion, I guess you'd say. Did you all have any housekeeping matters or different ideas about that?

MR. MORRIS: No, Your Honor.

THE COURT: Okay.

MR. YORK: No, Your Honor.

THE COURT: All right. Mr. York, I'll hear from you.

MR. YORK: Thank you, Your Honor. May it please the Court. And if I may share my screen, I've got a PowerPoint presentation.

THE COURT: All right. You may.

MR. YORK: So, Your Honor, we are here today on both motions. I'm going to talk about the motion to dismiss first. And the underlying basis of the adversary complaint that Highland has filed relates to a settlement agreement that the Court approved in 2022 between Mr. Daugherty and Highland. Among other things, the settlement reserved a general

unsecured claim to Mr. Daugherty that was tied to an IRS audit of Highland's 2008 and 2009 tax returns, potential liability that Mr. Daugherty had or might have concerning a cash bonus that he received during his employment at the time. And what the settlement agreement specifically says, Your Honor, is that any litigation between Highland and Mr. Daugherty concerning the validity and the amount of this reserved claim shall be stayed until the IRS makes a final determination with respect to the IRS audit dispute.

And in order to ensure fairness to both sides, as part of that language and settlement, Highland also reserved its rights to dispute the claim, subject to the stay language, that at the appropriate time it could file its dispute or objection to that claim.

Well, what we have in this adversary complaint is Highland seeking three things. One is a disallowance of that reserved claim. Alternatively, an estimation of that reserved claim. And then, thirdly, a subordination of that claim to a Class 11 status.

And so the critical question then is, for purposes of the motion that we filed, Your Honor, is whether Highland has actually pled allegations that there has been a final determination by the IRS. And they have not. In fact, their own pleading takes the opposite approach. They state that the 2008 tax return is currently subject to an IRS audit in

Paragraph 3 of their complaint. They state it's unclear when or how that 2008 audit will be finally resolved. And they state in Paragraph 23, on information and belief, the 2008 audit is not yet fully resolved.

There is not a single allegation anywhere in the complaint that the IRS has made a final determination with respect to the audit dispute that would alleviate Highland from its obligation to respect the stay provision that the parties freely and fairly negotiated between themselves that Highland said was part of a fair settlement to the Court and that the Court found just and reasonable as part of its order approving the settlement.

And because Highland has not pled such language, and because they incorporated the settlement agreement into the allegations in their complaint, the Court must dismiss this adversary action, without prejudice. And Highland is free to come back at a later date once it believes and can show that an actual final determination has occurred, and it can plead that and we can address the issue at that point. But it has not done so.

Instead, what Highland has done in response to our motion to dismiss is simply to say that it believes that the IRS has made a final determination with respect to the audit dispute such that the stay provision does not apply, but doesn't unequivocally state that that actually has happened. And in

fact, the evidence that Mr. Morris attached to his declaration that was part of the response shows that the qualified statement that Highland made is contradicted by that evidence.

The first is that the exhibits that they rely upon were exhibits that were issued by the Debtor in February of 2018, more than three years before the settlement agreement was entered into. And so that raises a fundamental question. If there was a final determination, as Highland believes, as of February 2018, then there would have been no need for the parties to include the stay provision in the settlement agreement. But they did, because, in fact, there had been no final determination.

And then, secondly, even those documents belie Highland's own argument that there was a final determination. Instead, the letter that Highland issued to Mr. Daugherty -- and it's only a letter to Mr. Daugherty; it's not from the IRS itself -- simply says that the Field Examiners for the IRS have proposed an adjustment to Highland's tax return, something that Highland points out in the letter that can either be accepted or rejected by Highland and that Highland intended to appeal.

And so the exhibits themselves do not establish that a final determination was made. In fact, all they show is that there was a proposal that the IRS Field Examiners had at the time of an adjustment to be made, not that the IRS had reached

a final determination.

And so because Highland has sidestepped its own pleading requirements, the Court must dismiss the complaint for failure to adequately plead the allegations to get around the stay provisions of the settlement agreement.

And I will, Your Honor, hold back on the arguments concerning the cross-motion until we get to that next. So, thank you.

THE COURT: Could you go, I think it was Slide 2. I was --

MR. YORK: Apologies.

THE COURT: I think it was Slide 2. The one that was quoting from Paragraph 9 of the settlement agreement. I have it in front of me, and --

MR. YORK: Is it showing, Your Honor? I apologize. Here you go.

THE COURT: No. I -- yes. Okay. Yes, I found that quote in Paragraph -- Section 9, but then that second, that was just your kind of paraphrasing?

MR. YORK: Yes, Your Honor.

THE COURT: I didn't see that second quote, so that's why I was double-checking that.

All right. Well, Mr. Morris, your turn.

MR. MORRIS: Thank you very much, Your Honor. I didn't take the time to prepare a PowerPoint for this. I want

to try to be brief, but I do need to provide just a little bit of context.

As Your Honor will recall, Mr. Daugherty filed substantial claims against Highland within the bar date, at the beginning of the confirmation hearing in early February 2001 [sic]. We actually announced settlement terms in principle with Mr. Daugherty. A few weeks later, the Court confirmed Highland's plan and, importantly, also approved the Claimant Trust Agreement.

Why do I bring that up? Because it's directly related to the cross-motion. And it's related to the cross-motion because there are two important provisions in the Claimant Trust Agreement that I know Your Honor is aware of. The first is that the Claimant Trust can't be dissolved until all disputed claims are resolved. This is one of two remaining disputed claims or interests, the other one being that which relates to Class 11, which is subject to a motion right now.

The other important feature of the Claimant Trust Agreement is the provision that says its life is limited to three years but subject to two one-year extensions. As Your Honor will recall, back in June the Court approved the second one-year extension to August 11, 2026. No further extensions are permitted, you know, absent, I guess, some extraordinary circumstance, which this can't possibly rise to that level.

And so the parties are obligated, Highland is obligated,

as the Claimant Trust Agreement provides, to commence dissolution by August 11, 2026, a step it cannot take until the claims are resolved.

That's a really important context. And I will get to why in a moment, although I suspect it's probably fairly obvious.

Mr. Daugherty's settlement didn't get consummated due to reasons that I don't think we need to get into right now. Negotiation (garbled) until November of 2021. While the Court didn't approve it until the following year, the settlement agreement was actually signed almost four years ago.

That settlement agreement resolved every single one of Mr. Daugherty's claims, with the exception of this IRS audit claim. Mr. York says, oh, gee, why did you -- why did you stay it, since we now contend that the IRS made a final determination in 2018? The answer for that is pretty simple, Your Honor. I'm not in the habit of doing work that I don't need to do. Mr. Daugherty wouldn't let go of this claim. We have done no work around it. We simply kicked the can down the road. There's very little road left today, and that's why we're here.

Your Honor focused on Paragraph 9 of the parties' agreement, and I want to highlight four provisions of that simple paragraph, because I think they're very important.

The first is it begins by saying that Mr. Daugherty contends that he has a contingent unliquidated claim against

the Debtor arising out of 2008, 2009 compensation. It continues by saying, Highland disputes the validity and amount of the reserved claim. So make no mistake: The parties agreed and understood that Highland reserved the right not only to contest the amount of the claim, but the validity of the claim itself.

That concept is embodied in the very next sentence, where Highland reserves the right to assert any and all defenses.

And then you have the stay provision. And the stay provision was not, as I think Mr. Daugherty suggests, related to the final determination of the IRS audit, but it's limited to the IRS's final determination with respect to that audit.

So we entered into that agreement many years ago, and with an eye towards wrapping -- but now, with an eye towards wrapping this case up in advance of the August 2026 deadline, Highland began to do some diligence, because we have to resolve the claim. And we began reviewing the substance of Mr. Daugherty's reserved claim, and we uncovered the documents that are attached to my declaration which was filed in the adversary proceeding at Exhibit 11.

Based on Highland's understanding that the IRS has made a final determination, Highland commenced this action to disallow, estimate, or subordinate the reserved claim.

And let me just respond to the suggestion that somehow the pleading is deficient. There is no challenge to the adequacy

of the pleading with respect to the three causes of action. I'm not even aware of a requirement that we needed to say anything about the stay itself. This is a motion to dismiss. We responded to the motion to dismiss. We've offered evidence as to why we believe the IRS has made a final determination.

But at the end of the day, the fact that we said repeatedly in our pleading that the audit is not resolved is completely irrelevant. It's irrelevant to the stay because that's not the standard under Paragraph 9. The issue is not whether the IRS audit has been resolved. The issue is whether the IRS has made a final determination, and we responded to the motion to dismiss with evidence.

Mr. Daugherty has moved to dismiss. As I mentioned, he did some not on the basis of the pleadings but in reliance on that singular sentence in the settlement agreement. Again, the stay provision does not require a final resolution of the IRS audit. Instead, it only requires that the IRS make a final determination, and we believe that that's exactly what the IRS did back in 2018.

Exhibit 3 to my declaration, Your Honor, is not a statement from Highland. It contains IRS Form 886-Z, which shows the IRS's determination that Mr. Daugherty's share of the partnership income was approximately $1.26 million.

Exhibit 4 is another IRS document, not something from Highland, where they -- and it constitutes a written offer

from the IRS to settle Mr. Daugherty's claim based on his allocable share of Highland's adjusted and corrected income. Just look at Exhibit 4. The adjustments are there. Right? Highland reported, I think, $3 million of partnership income. The IRS said no, no, no, you're just off by about $166 million. So it turned out to be about $169 million of untaxed income, and Mr. Daugherty is responsible for his allocable share as a partner.

And that's why, of course, we say his claim is not valid or otherwise should be subordinated, because he received this money 15 years ago, 18 years ago, whatever it is, I've lost count, in his capacity as a partner.

But I digress a little bit. The point here, Your Honor, is that with August 2026 coming up, with no communication about this matter at all, Highland did the responsible thing and sought to resolve Mr. Daugherty's claim. That's why we're here.

I understand that Mr. Daugherty disputes both the interpretation of Section 9 as well as what the IRS has done, and that's fine. We could litigate the issue, Your Honor. I could have served discovery. This is almost jurisdictional in nature, the nature of this particular motion to dismiss. It has nothing to do with the claims itself. And we could have taken discovery. But who wants to do that, Your Honor? I really don't want to spend the money. I don't want to get

experts. I don't want to subpoena Hunton & Williams. There are so many things we could do if we really had to get through this gating issue. We don't believe it makes any sense to do that.

And given the facts and circumstances that exist today that we did not pursue four years ago, we believe the Court should modify the prior order approving the settlement under Rule 60(b)(6) because justice requires. Under Rule 60(b)(6), courts have broad authority to relieve a party of an order that justifies relief. The Court should exercise this authority here and strike the stay provision.

No one anticipated that this matter would be unresolved four years after the original agreement was signed, and no one agreed, and I cannot believe the Court would ever have approved, that the life of the Claimant Trust Agreement would extend beyond August 11, 2026 because Mr. Daugherty's claim remained unresolved at this time. That's not what the parties expected. That's not what the parties foresaw. And yet here we are.

At this point, but for some appellate litigation, this case is nearly complete. Highland continues to take all steps necessary to commence its dissolution. Only two remaining disputed claims exist: this one, and as I mentioned earlier, the motion that we had filed to fix the amount of the Class 1 interests. That's it.

There's only two meaningful assets that remain to be liquidated. One concerns Korea, and the other is Highland's interest in an entity called HCLOF. We are hopeful that the Korean asset will be monetized by the end of the year. The HCLOF interest, regrettably, is the subject of Mr. Dondero-generated litigation. But that matter is subject to briefing at this time in the Second Circuit. We are optimistic of a positive result there, one that will allow us to liquidate that last remaining asset.

Highland intends to file a motion in the coming weeks -- I don't know if it will be a motion or a notice -- of its intention and desire to destroy a lot of books and records, historical books and records that are costing the estate a significant amount of money, but it's part of a wind-down process. We need to skinny this down.

We're going to be surrendering our office space at the end of the year, and the vital employees who remain will work remotely.

We are doing everything we can to complete this case, and Mr. Daugherty's reserved claim cannot be allowed to stand in the way. It was reserved, it was in a reserved amount that, you know, satisfied him at the time, so there's no question that the money is there to be had. Frankly, we think we should just get on with it today.

I know in response Mr. Daugherty said, well, stay it until

January or February, and then let's come back and let's do this all again. You know, that might make sense and it might be appealing, Your Honor, if Mr. Daugherty gave the Court or Highland any indication that the use of the next 90 to 120 days would be helpful in getting him wherever he thinks he wants to be with respect to the IRS.

But I don't think that's what's at play here, Your Honor. I think there are ulterior motives. And I think that for the following reasons. Your Honor will recall back in June, when we had the hearing on Mr. Daugherty's objection to the HMIT settlement, that we encouraged him, we recommended that he try to resolve his dispute by adjusting the amount in the reserve. Your Honor will recall he did not do that.

I'm going to tell Your Honor that we have made several settlement offers to try to resolve his claim. We even suggested to Mr. Daugherty that he go back to the IRS and see what Mr. York characterized as a proposal back in 2018, see if it was still on the table. Because we have learned since this litigation began that his exposure is not that $1.2 million number, but it's simply the application of the highest individual income tax rate to that number. Thirty-seven percent. Thirty-seven percent times $1.2 million comes out to approximately $440,000.

We said, why don't you go see if that's on the table? And, you know, he sat here in court in June and said, Your

Honor, I don't want to take a nickel I'm not entitled to, but I fear, I fear the risk that's associated with this dispute. Why not just pick up the phone and see if the IRS is willing to stand by the deal that they made, the offer that they made in 2018, and we could all go home? He refuses to do that. And instead he claims that he's entitled to other things. I'll just leave it at that.

We need to get on with this. The only claim that Mr. Daugherty has is this reserved claim. The parties dispute whether or not the IRS has made a final determination. I really don't want to litigate that issue, because it will be costly and it adds absolutely nothing.

This case needs to end. It has a final deadline of August 11, 2026. And whether we start the litigation today or in January or February, I'm not -- I don't feel terribly strongly about, but I have no reason to believe that waiting is going to change anything, and that's why I'd like to just get on with it.

So, you know, we respectfully request that the Court grant the cross-motion, modify the order approving the settlement, strike the stay provision, and then deny the motion to dismiss as moot.

Unless Your Honor has any questions, that's all I have.

THE COURT: Well, my only question is I just want a reminder. You've alluded to that there were multiple

components, shall we say, to Mr. Daugherty's proof of claim, and I know we talked about this in June, but my brain has already forgotten. Mr. Daugherty was allowed several million dollars and would have been paid by now several million dollars from the Highland estate for the other components of his proof of claim.

Can you refresh my memory on that? I think I even read it somewhere --

MR. MORRIS: Yeah.

THE COURT: -- in my material for this morning, but I've forgotten.

MR. MORRIS: Sure. My recollection, Your Honor, and I don't have the agreement in front of me, my recollection is that Mr. Daugherty was given an allowed Class 8 claim of some $8 million.

THE COURT: Uh-huh.

MR. MORRIS: That, I think that's all been paid in full.

He was granted an allowed Class 9 claim. I believe it is some $3-plus million. That's also been paid a hundred percent.

So he's already received over $11 million by my count.

He also received other valuable consideration and other assets, including the HERA shells that he's using now to litigate with other people. But he's gotten -- he's gotten --

he's gotten a lot. This is the last little stub. It was a difficult negotiation, as Mr. Seery has already testified to, and we thought the better part of valor there was simply take, you know, 95 -- resolve 95 percent of his claim and deal with the other five percent on another day. And that's what we're trying to do here, and that's all we're trying to accomplish. It's not personal. It's not vindictive. We have a fiduciary duty to wind up the estate, and that's all we're trying to do here.

THE COURT: Okay. As you were talking, I found it. It's in Paragraph 1 of the settlement agreement at Page 6, showing the allowed amount of his different claims, excluding this reserved claim.

All right. Well, Mr. York, your reply?

MR. YORK: Sure, Your Honor. Let me, first, let me start with this with respect to the IRS final determination issue. The proposal with the IRS is simply that, because it only becomes final once it's either agreed to by the taxpayer or, if not, the challenge has been completed. And what's clear in both Highland's own filings in the complaint as well its exhibits to its response is that that hasn't happened because it is being challenged by Highland.

THE COURT: Okay. And I --

MR. YORK: And then --

THE COURT: Let me stop you. I'm looking at the

February 3, 2018 letter that was one of the attachments to Mr. Morris' declaration. And I think here is the language that the Debtor suggests is basically a final determination, to use that term. The second sentence of the first paragraph: "Exam" -- which has been the defined term 'IRS Field Examiners,' --"concluded their audit and have proposed an adjustment to the 2008 return."

So I think that's one of the things we're arguing about today. Does that phraseology, "The IRS Field Examiners concluded their audit and proposed an adjustment to the 2008 return," does that constitute a final determination?

MR. YORK: It does not. And I'm going to defer to Mr. Smeltzer to explain why that is more specifically, Your Honor. But we laid that all out in our complaint to begin with, and Highland didn't challenge at all those procedures in its response, other than to say it didn't want to wade into the thicket of arcane regulations. And I'll let Mr. Smeltzer address the rest of that substantively.

THE COURT: And we'll come back to that thicket comment. But Mr. Smeltzer?

MR. SMELTZER: Sure. So, Your Honor, can you hear me?

THE COURT: Yes, I can.

MR. SMELTZER: All right. So, I do tax litigation and controversy all the time. I get it from DOJ, so on the

Government side, and as a private attorney as well.

MR. MORRIS: I'm sorry to interrupt, Mr. Smeltzer. I just want to note an objection here, Your Honor. You know, there's no witnesses. To the extent that this is being proffered effectively as expert testimony, I would object. The papers say what the papers say, but if we're now going to have an education, I really would have liked to have notice, because I would have called the partner at Hunton & Williams with whom I spoke.

But having said that, I don't want to stop him from speaking. I think that's for Your Honor to determine. But I do want to note the objection, that to the extent that this is kind of expert testimony, we had no notice, we didn't have an opportunity to bring our own expert here. I thought we were limiting ourselves to the papers.

THE COURT: Okay. Thank you.

As to that, I'm going to regard this as lawyer argument, not a fact expert. So, Mr. Smeltzer, you can say what you were going to say.

MR. SMELTZER: Absolutely. Absolutely fine, Your Honor.

And so when the IRS Exam, which is referred to in there, right, is a -- their job is to examine the return and propose adjustments. When they made that proposal, that proposal, not only is it subject to challenge, but we don't even know if

this has gone through the full IRS administrative process at all.

I've had my own cases that the proposed adjustment was changed by as much as $3 million once the final-final notice that can be challenged in court was actually received.

We have never been provided the final FPAA, which is what they have referred to, which is a Final Proposed Administrative Adjustment. That's what seals the IRS's position on what it thinks the appropriate adjustments are, subject to challenge.

We laid out in our motion to dismiss all the separate procedures that are involved there. It can be challenged by the tax matters partner, which is presumably the pleading that they weren't going to challenge that. It can also be challenged by partners, should the tax matter partner choose not to do it alone. And it only -- it's only when those adjustments are done that you can do that.

And it is very important, because at the lawsuit stage, it can, again, the numbers can be changed. The IRS can change. They could add penalties to it. They can do other things. The only thing that changes is they now bear the burden of proof on those issues.

But there is a lot of moving parts that happen in the litigation, both at the beginning, and then at the very end, because taxes are sometimes complicated and hard, there's a

computation that's done at the very end of Tax Court proceedings. That as well can change the computation. The IRS has computation specialists. The partnership has computation specialists. They don't often agree.

And I, again, in my experience, sometimes that can be off by millions that's involved. And that is why just a proposed adjustment -- isn't even necessarily a final proposed adjustment because nobody seems to have a copy of that one -- that alone can be significantly changed several stages along the way.

So what we have, in my opinion, Your Honor, is an IRS proposal that is a guess at what the final result might be.

THE COURT: Okay. A couple of follow-up questions. Mr. Morris, he made a comment that I think was a practical suggestion more than anything else: Why won't you all call up the IRS and get some information about what's going on?

MR. SMELTZER: Sure. I can answer that as well. I don't think Mr. Daugherty has the authority to get any information from the IRS --

THE COURT: Well, wait, I heard you say that --

MR. SMELTZER: -- under --

THE COURT: -- either the managing -- whatever the term of art is -- either the managing tax partner or words to that effect, which I read somewhere in the pleading was --

MR. SMELTZER: Yeah.

THE COURT: -- Strand, which I think Mr. Dondero --

MR. SMELTZER: Yeah.

THE COURT: -- probably has control of at this point in time, or a partner could get information.

MR. SMELTZER: So, so --

THE COURT: I thought I heard you say that.

MR. SMELTZER: Sure. Mr. Daugherty may have right to information, but only if the tax matter partner doesn't choose to exercise -- to file a lawsuit. Then he would inherit rights to do it afterwards. And he could potentially intervene in that lawsuit.

But until then, only a person with a power of attorney form is allowed to get information from the IRS. There's a specific Internal Revenue Code that subjects them to both civil and potential criminal penalties for disclosing information to an unauthorized party.

And so it's possible that Mr. Daugherty, he could call, but they probably wouldn't tell him anything so that they don't get themselves in any sort of disclosure heat of doing that.

THE COURT: Okay.

MR. SMELTZER: He would have to get --

THE COURT: Okay.

MR. SMELTZER: -- one of the --

THE COURT: Okay. Is there litigation pending right

now?

MR. SMELTZER: I don't think we know. We've been told, I think, in there that they --

THE COURT: Okay. Help me to understand that, because I'm used to courts being very transparent. Are you telling me that Tax Court dockets, or even the lawsuits, a file number, a case number, aren't something that you can get access to, that a member of the public can't get access to?

MR. SMELTZER: Well, and I'll have to defer to Mr. York a little bit here, just because I don't know where we are in the time frame now, if Mr. Daugherty has received anything there.

But right, like, the adjustments go through just the partnership. The partnership has the chance to file a lawsuit. There's a time frame for that. And if they file it, they may not provide him notice. Maybe we could search and try and see if it has been filed. But I don't even know if the time has come.

It would have been very helpful to have an FPAA, because that would allow our side to both know the deadlines for filing such lawsuits; it also would have come with all the computation forms --

THE COURT: Okay.

MR. SMELTZER: -- that would also allow us --

THE COURT: I just, really, all I'm asking is, if a

lawsuit is filed, it can't be publicly accessible, like any other federal court lawsuit?

MR. SMELTZER: The Tax Court has its own online system, and you can search for it, and as long as you have the right name you might be able to get it from there.

THE COURT: So you could easily search that, right?

MR. SMELTZER: I haven't searched for it, but presumably we could go for a name and see if it's there.

THE COURT: Okay. Well, I read somewhere in the paperwork that this was not anticipated to be resolved until mid- or sometime in 2028. Where was that retrieved?

MR. YORK: That was -- that statement first came up in the complaint in a footnote, I believe, Your Honor.

THE COURT: Okay.

MR. YORK: Let me -- give me one second and I will point you to it.

THE COURT: Okay. Where did it come from? I don't -- I read it. I couldn't remember where I read it. But where is that coming from?

MR. YORK: Your Honor, I'd have to defer to Mr. Morris. It's their allegation.

THE COURT: Do you know if there's a lawsuit --

MR. MORRIS: Your Honor?

THE COURT: Oh, Mr. Morris, go ahead.

MR. MORRIS: Yeah. I don't have any information on

that.

But I just have to take issue with what was just said, that there's nothing Mr. Daugherty can do here, so it's so sad and unfortunate.

If we just look at Exhibit 2 in my declaration that was sent to Mr. Daugherty, in 2018 Highland told him: At this time, no action on your part is required with respect to these documents unless you wish to agree with the Exam's proposed adjustments.

And then if you look at Exhibit 3, it relates only to Mr. Daugherty.

And then if you look at Exhibit 4, that is a proposal that is made to Mr. Daugherty and Mr. Daugherty alone.

Highland, as the tax audit partner, was telling Mr. Daugherty, you can settle the claim if you want. We recommend that you don't. And Mr. Daugherty decided not to.

We're just asking him, why don't you just go and try and see if that proposal is still on the table? Why don't you do that? They don't want to, Your Honor. This is not about resolution of this claim.

THE COURT: All right. Mr. York, you can say the rest of your reply.

MR. YORK: Sure. So, let's be clear, too. What Highland said in 2018 to Mr. Daugherty was, in the letter, You do not need to attend the closing conference. Highland will

handle the closing conference and appeal the proposed adjustment to the IRS Appeals Office.

There was no -- never -- contrary to what Mr. Morris is saying based upon a redacted document that somehow this was provided to Mr. Daugherty, this sort of -- this offer, there's no evidence of that other than they have a copy of this in their own files. That's it.

So let's go -- but let's go back to the rest -- the other issue they raised, which was the cross-motion under Rule 60(b)(6), because I need to address that. And I'm going to share my screen.

So, there are multiple reasons the cross-motion needs to be denied. First off, Your Honor, it's an extraordinary process, an extraordinary circumstance, to use Rule 60(b)(6). And the courts are clear that you're not to use motions to reform or nullify settlements because settlements represent the parties' negotiated allocation of risk. And it doesn't permit -- the Rule doesn't permit the Court to rescue a sophisticated party such as Highland from the predictable results of its own bargain.

And that's -- as the Fifth Circuit has said. And that is exactly what has happened here, because Highland claims, well, no one foresaw the IRS audit would take this long, except, Your Honor, to the extent that that is a mutual mistake argument, that's not a 60(b)(6) issue. That's a 60(b)(1)

issue. And under Rule 60(c)(1), that's got to be raised within one year, as the U.S. Supreme Court pointed out in the *Pioneer Investment Services v. Brunswick Associates* case. It's a one-year limitation.

Highland was also well aware, because it accepted the benefits of the settlement agreement's stay provision, because it secured four separate tolling agreements of its objection deadline along the way. And in fact, in the first tolling agreement that the parties entered into, the recitals specifically stated, the parties acknowledged that there was an absence of a resolution of the IRS dispute and it's unknown when the IRS dispute may be resolved.

Highland knew all of this at the time it entered into the settlement agreement. It could have asked for a specific time period by which the stay would be lifted in the settlement. It didn't do so. And the Court cannot rescue it under Rule 60(b)(6) from the bargain that it entered into.

And so, for all of those reasons, including the estoppel issue of Highland incurring the benefits of that stay through the extension of the claims objection deadline, the Court cannot strike the stay provision.

THE COURT: All right.

MR. MORRIS: Just very briefly in reply, Your Honor.

THE COURT: I guess you get to reply to his response on the Rule 60(b).

MR. MORRIS: Right. Just very briefly. Counsel continues to refer to our admissions that the IRS dispute remains unresolved and we don't know when it will be resolved. I confess to that admission. It's completely irrelevant. Look at the language of Section 9. It doesn't say it's stayed until the IRS dispute is resolved. It says it's stayed until the IRS makes a final determination. That's the issue before the Court.

So nothing that we've said about the indeterminate duration of the litigation concerning this IRS dispute is relevant at all. The admission is meaningless.

I have nothing further, Your Honor.

THE COURT: All right. Well, I didn't mean to get too bogged down on some of these technical issues. But I guess, at the same time, I felt like it was somewhat relevant here because, do we have extraordinary circumstances under Rule 60(b)(6)?

Rule 60(b)(6), it doesn't actually use the word extraordinary. It just, you know, any other reason that justifies relief. Are there grounds to grant relief from a final order after a laundry list of things like mistake, inadvertence, surprise, newly-discovered evidence, fraud, et cetera. As we all know, there's kind of a catchall phrase there, any other reason that justifies relief. And courts of appeals have put their gloss, if you will, on that, suggesting

you should only use this section when you have extraordinary circumstances.

I find extraordinary circumstances here. And just to put it in context, we have a very large bankruptcy estate that had a plan confirmed in 2021, February 2021. The plan went effective August 2021. November 2021, the settlement agreement was reached, signed by the parties, that allowed Mr. Daugherty certain claims on which he has been paid, it looks to me like it was close to $13 million.

And this settlement agreement essentially carved out, carved out this claim, this contingent unliquidated disputed claim of Mr. Daugherty. And whatever the correct interpretation of final determination, the fact is here we sit close to four years later with almost nothing left to happen at the Bankruptcy Court level, hopefully at the Appellate Court level. I never know from day to day what's still pending out there. But here we are, four years later. Could anyone have reasonably anticipated that we would be sitting here in the latter part of 2025 with this bankruptcy estate still open?

I think the answer is no, and we know that because of the Claimant Trust Agreement and what it anticipated would be the appropriate duration and possible extensions. The Claimant Trust Agreement and the orders subsequently entered by the Court authorizing extension require basically the bankruptcy

case and the associated trust to be wrapped up by August 11, 2026. I have heard nothing today to make me think -- to allow me to possibly assess, really, whether that's a possibility. And we cannot get in a situation where we're at August 2026 and I've entered an order saying it must be wrapped up, I've entered orders approving the Claimant Trust Agreement, I've entered orders extending.

I know that Mr. Daugherty wants me to honor the previous order approving the settlement agreement, which he thinks requires this reserve to be kept intact until some undetermined time. But I've really got a conflict of orders, right? I've got an order approving a plan that approved, as part of that plan, the Claimant Trust Agreement, which had a finite duration. I've got then an order extending the duration to -- I think we're at the end of the rope. I'm not even sure how much discretion there is to extend that further. And then I've got an order that might be an open order for 2028, 2029. I've really got a conflict of orders.

So I really do think it's extraordinary. It's extraordinary that we're down the road so far and this claim, this audit, has, we guess, still not been resolved, but I don't even have information to be clear about the status. Is there even a lawsuit?

So I don't like it, but I think clearly this Court has authority and should exercise its discretion to grant the

motion -- I forget the way it was phrased -- but a motion under Rule 60(b)(6) for the settlement agreement and the order approving the settlement agreement to be modified, so that we don't have to wait any further for whatever final determination, however it might be interpreted, to be completed with regard to this tax refund.

And I'm stating the obvious, but I think the record needs to be clear on this. Mr. Daugherty at one time was a limited partner of the Debtor. He received a tax refund for Year 2008, and this was because he was allocated his applicable losses for the entity Highland's Tax Year 2008 on account of his partnership interest.

We are now -- yes, do the math -- 17 years down the road. I understand Mr. Daugherty believes that Highland was obligated, I guess because of this 2019 benefit statement, or I'm not sure if there was other documentation, to make him whole if any portion of that tax refund is later clawed back by the IRS. Highland disputes that.

But we can't wait forever. That's not what the Bankruptcy Code, the bankruptcy process, is designed to do. 502(c) is because of this sort of situation, where at some point you've got to estimate the claim if you can't get to a final determination otherwise. And I refuse to keep this estate open for who knows how many more years. Okay? I've made it very clear in other hearings, in other contexts, we need to

wind this up.

So, based on everything I've heard, I do think it's appropriate to apply 60(b)(6). I do think it's fair to say this was an unforeseeable circumstance. I just don't think anyone thought, reasonably thought, this would still be hanging out there with who knows what status four years later.

So the Rule 60(b)(6) motion is granted. And because of that, I deny the motion to dismiss of Mr. Daugherty for failure to state a claim.

So I'll look, Mr. Morris, for a form of order on those matters.

And then I don't know if you have a viable scheduling order at this point or you'll need to talk amongst yourselves about a form of scheduling order. But I presume you will ask for a scheduling conference if that's what you decide you need to do.

All right. Anything further?

MR. YORK: No, Your Honor. And the parties did, in their, I guess, scheduling order previously submitted relating to the briefing, we did say that, depending on how the Court ruled, we would confer after that on a scheduling order for the remainder of the case.

THE COURT: Okay. I do remember that now. Thank you for reminding me.

Mr. Morris, you're on mute. Were you saying something

else?

MR. MORRIS: I was just going to say, I'm very confident that we'll be able to come to a consensual scheduling order in short order.

THE COURT: Okay. All right. Thank you. We are adjourned.

MR. MORRIS: Thank you.

THE CLERK: All rise.

MR. YORK: Thank you, Your Honor.

(Proceedings concluded at 10:26 a.m.)

--oOo--

CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Kathy Rehling **09/29/2025**

_____ _____

Kathy Rehling, CETD-444 Date
Certified Electronic Court Transcriber

INDEX

PROCEEDINGS 3

WITNESSES

-none-

EXHIBITS

-none-

RULINGS 30

Motion to Dismiss Adversary Proceeding filed by Defendant Patrick Hagaman Daugherty (5)

Motion for Leave filed by Plaintiff Highland Capital Management, L.P. (10)

END OF PROCEEDINGS 35

INDEX 36

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

STIPULATION REGARDING HIGHLAND CAPITAL MANAGEMENT, L.P.'S DEADLINE TO FILE RESPONSE TO PATRICK DAUGHERTY'S MOTION FOR STAY PENDING APPEAL

This stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. ("Highland") and defendant Patrick Daugherty ("Daugherty," and together with Highland, the "Parties"), by and through their respective undersigned counsel. Through this Stipulation, the Parties respectfully state and stipulate as follows:

RECITALS

WHEREAS, on May 2, 2025, Highland commenced the above-captioned adversary proceeding (the "Adversary Proceeding") by filing its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Adv. Pro. Docket No. 1] (the "Complaint").

WHEREAS, on June 4, 2025, Daugherty moved to dismiss the Complaint [Adv. Pro. Docket No. 5] (the "Motion to Dismiss") on the ground that it was to be stayed pursuant to the terms of that certain *Settlement Agreement* by and between Highland and Daugherty (the "Settlement Agreement") approved by the Bankruptcy Court in its *Order Approving Settlement Agreement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3298] (the "Settlement Order").

WHEREAS, on July 18, 2025, Highland filed its opposition to the Motion to Dismiss and cross-moved for relief from the Settlement Order [Adv. Pro. Docket Nos. 9 and 10] (the "Cross Motion") seeking to strike the stay provision from paragraph 9 of the Settlement Agreement.

WHEREAS, on August 8, 2025, Daugherty filed his opposition to the Cross Motion [Adv. Pro. Docket No. 15].

WHEREAS, on September 5, 2025, the Bankruptcy Court entered its *Order (A) Denying Patrick Daugherty's Motion to Dismiss and (B) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Pro. Docket No. 23] (the "9024 Order") granting the Cross Motion and denying the Motion to Dismiss.

WHEREAS, on September 19, 2025, Daugherty commenced his appeal of the 9024 Order (the "Appeal") by filing his *Notice of Appeal* [Adv. Pro. Docket No. 25].

WHEREAS, the Appeal has been docketed as civil action no. 3:25-cv-02584-E in the United States District Court for the Northern District of Texas, Dallas Division.

WHEREAS, on September 26, 2025, Daugherty filed with the Bankruptcy Court his *Motion for Stay Pending Appeal* [Adv. Pro. Docket No. 33] (the "Stay Motion") seeking, among other things, stays of (i) the Adversary Proceeding and (ii) enforcement of the 9024 Order.

WHEREAS, pursuant to Federal Rule of Bankruptcy Procedure 8013(a)(3)(A), Highland's deadline to respond to the Stay Motion is October 3, 2025.

WHEREAS, the Parties have conferred and are executing this Stipulation to clarify that Highland's deadline to respond to the Stay Motion shall be extended to Monday, October 6, 2025.

NOW, THEREFORE, IT IS HEREBY JOINTLY STIPULATED AND AGREED AS FOLLOWS:

1. Highland's deadline to respond to Daugherty's Stay Motion is extended to **Monday, October 6, 2025**.

2. This Stipulation may be executed in counterparts. A facsimile, electronic, or photocopy of this Stipulation and the signatures hereto shall have the same effect and may be accepted with the same authority as if it were an original.

3. The Parties agree that the Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Stipulation and any order related thereto.

[*Remainder of Page Intentionally Blank*]

Dated: October 1, 2025.

GRAY REED

/s/ Drake M. Rayshell
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on October 1, 2025, a true and correct copy of the foregoing Stipulation was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed October 1, 2025

United States Bankruptcy Judge

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adversary Proceeding No. 25-03055-sgj

ORDER APPROVING STIPULATED SCHEDULING ORDER

Upon consideration of the *Stipulated Scheduling Order* [Adv. Proc. Docket No. 31] (the "Stipulation")[2] by and between Highland Capital Management, L.P. ("Highland"), the reorganized

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

debtor in the above-captioned chapter 11 case (the "Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), and Patrick Hagaman Daugherty ("Daugherty," and together with Highland, the "Parties"), it is **HEREBY ORDERED THAT:**

1. The Stipulation, [3] a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. On or before **October 3, 2025**, Daugherty shall serve and file his answer to the Complaint.

3. The Parties shall serve their written discovery requests (including document requests, interrogatories, and requests for admission) (the "Discovery Requests") on the other Party on or before **October 24, 2025**, after which no further Discovery Requests shall be served on another Party absent a Court order entered on reasonable notice and upon a showing of good cause.

4. The Parties shall (a) serve written responses and objections to any Discovery Requests on or before **November 21, 2025**, and (b) be substantially complete with document production on or before **December 12, 2025**.

5. Subpoenas for third-party discovery (including written discovery and depositions) shall be served on or before **December 19, 2025**.

6. Fact depositions shall be taken by video between **January 5 and January 30, 2026**. The Parties shall be limited to five (5) fact depositions per side (except that if multiple corporate representatives are designated, those shall collectively count as one fact deposition), and each fact deposition shall be limited to five (5) hours of testimony, absent further Court order made after reasonable notice and upon good cause shown.

[3] As noted in the Stipulation, Daugherty's agreement to the Stipulation is subject to, and without waiving, his Notice of Appeal [Adv. Pro. Docket No. 25] of the Court's Order [Adv. Pro. Docket No. 23], filed September 19, 2025.

7. The Parties shall confer in good faith as to the identity of witnesses they seek to depose. Notwithstanding the provisions of paragraph 6 of this Order, in an effort to be efficient, reduce the burden on third parties, and avoid motion practice, if the Parties intend to depose the same witness, they shall do so in one day, with Highland having up to three (3) hours of testimony and Daugherty having up to four (4) hours of testimony.

8. Fact discovery (including third-party discovery) shall be completed by **January 30, 2026; provided, however,** that if a third-party fact witness is unavailable (or refuses to appear) for deposition on or before January 30, 2026, then the deadline for completing third-party witness depositions shall be extended to February 13, 2026, or such later date as the Court may order after reasonable notice and upon good cause shown.

9. On or before **February 13, 2026**, the Parties shall disclose the identity of any retained expert witness they intend to call at trial, and (b) serve the expert's report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

10. On or before **March 6, 2026**, the Parties shall disclose the identity of any retained rebuttal expert witness they intend to call at trial, and (b) serve the expert's rebuttal report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

11. Expert depositions and expert discovery shall be completed by **March 23, 2026**.

12. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **March 25, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **March 30, 2026**, or they shall be deemed waived.

13. A joint pretrial order in compliance with the Court's Local Rules shall be filed on or before **April 1, 2026**.

14. Any Party wishing to file a trial brief shall file and serve the same on or before **April 3, 2026**.

15. A one-day evidentiary hearing will be held in person before the Court beginning at **9:30 a.m. (Central Time)** on **April 8, 2026**.

16. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

17. The schedule set forth in the Stipulation and this Order shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

18. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Stipulation and this Order.

###END OF ORDER###

APPROVED AS TO FORM AND SUBSTANCE:

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

GRAY REED

By: */s/ Drake M. Rayshell*
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel for Patrick Daugherty

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

STIPULATED SCHEDULING ORDER

This stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. (the "Highland" or the "Debtor") and defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties"), by and through their respective undersigned counsel, to establish certain deadlines pertaining to the litigation of claims asserted in Highland's *Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Adv. Pro. Docket No. 1] (the "Complaint"), provided that Daugherty's agreement to this Stipulation is made subject to, and without waiving, his Notice of Appeal [Adv. Pro. Docket No. 25] of the Court's Order [Adv. Pro. Docket No. 23], filed September 19, 2025.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court"). Bankr. Docket No. 186.

WHEREAS, on April 1, 2020, Daugherty filed Proof of Claim No. 67 ("Claim 67"), which was superseded and replaced by Proof of Claim No. 77 ("Claim 77").

WHEREAS, on December 23, 2020, Daugherty filed Proof of Claim 205 (the "Claim" or

"Claim 205"), which superseded and replaced Claim 77 in its entirety.

WHEREAS, on February 22, 2021, the Bankruptcy Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943] (the "Confirmation Order") which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P., as Modified* [Bankr. Docket No. 1808] (the "Plan").

WHEREAS, on December 8, 2021, the Debtor filed *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the "Settlement Motion").

WHEREAS, on March 8, 2022, the Bankruptcy Court granted the Settlement Motion [Bankr. Docket No. 3298] (the "Settlement Order"), disallowing Claim 67 and Claim 77 with prejudice and resolving all of Claim 205 other than Daugherty's Reserved Claim (as defined in the Parties' *Settlement Agreement* approved by the Settlement Order).

WHEREAS, on May 2, 2025, Highland commenced the Adversary Proceeding by filing the Complaint to disallow, estimate or subordinate Daugherty's Reserved Claim.

WHEREAS, on June 4, 2025, Daugherty moved to dismiss the Complaint on the ground that it was to be stayed pursuant to the Parties' Settlement Agreement [Adv. Pro. Docket No. 5] (the "Motion to Dismiss").

WHEREAS, on July 18, 2025, Highland filed its opposition to the Motion to Dismiss and cross-moved for relief from the Settlement Order [Adv. Pro. Docket Nos. 9 and 10] (the "Cross Motion") seeking to strike the stay provision from paragraph 9 of the Settlement Agreement.

WHEREAS, on August 8, 2025, Daugherty filed his opposition to the Cross Motion [Adv. Pro. Docket No. 15].

WHEREAS, on September 4, 2025, after further briefing and oral argument, the Bankruptcy Court granted the Cross Motion, denied the Motion to Dismiss, and requested the Parties confer on a scheduling order for this litigation.

WHEREAS, the Parties have conferred and desire to enter into the proposed scheduling order set forth below.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Bankruptcy Court, it shall be SO ORDERED:

1. On or before **October 3, 2025**, Daugherty shall serve and file his answer to the Complaint.

2. The Parties shall serve their written discovery requests (including document requests, interrogatories, and requests for admission) (the "Discovery Requests") on the other Party on or before **October 24, 2025**, after which no further Discovery Requests shall be served on another Party absent a Court order entered on reasonable notice and upon a showing of good cause.

3. The Parties shall (a) serve written responses and objections to any Discovery Requests on or before **November 21, 2025**, and (b) be substantially complete with document production on or before **December 12, 2025**.

4. Subpoenas for third-party discovery (including written discovery and depositions) shall be served on or before **December 19, 2025**.

5. Fact depositions shall be taken by video between **January 5 and January 30, 2026**. The Parties shall be limited to five (5) fact depositions per side (except that if multiple corporate representatives are designated, those shall collectively count as one fact deposition), and each fact

deposition shall be limited to five (5) hours of testimony, absent further Court order made after reasonable notice and upon good cause shown.

6. The Parties shall confer in good faith as to the identity of witnesses they seek to depose. Notwithstanding the provisions of paragraph 5, in an effort to be efficient, reduce the burden on third parties, and avoid motion practice, if the Parties intend to depose the same witness, they shall do so in one day, with Highland having up to three (3) hours of testimony and Daugherty having up to four (4) hours of testimony.

7. Fact discovery (including third-party discovery) shall be completed by **January 30, 2026; provided, however,** that if a third-party fact witness is unavailable (or refuses to appear) for deposition on or before January 30, 2026, then the deadline for completing third-party witness depositions shall be extended to February 13, 2026, or such later date as the Court may order after reasonable notice and upon good cause shown.

8. On or before **February 13, 2026**, the Parties shall disclose the identity of any retained expert witness they intend to call at trial, and (b) serve the expert's report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

9. On or before **March 6, 2026**, the Parties shall disclose the identity of any retained rebuttal expert witness they intend to call at trial, and (b) serve the expert's rebuttal report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

10. Expert depositions and expert discovery shall be completed by **March 23, 2026**.

11. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **March 25, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **March 30, 2026**, or they shall be deemed waived.

12. A joint pretrial order in compliance with the Court's Local Rules shall be filed on or before **April 1, 2026**.

13. Any Party wishing to file a trial brief shall file and serve the same on or before **April 3, 2026**.

14. A one-day evidentiary hearing will be held in person before the Court on **April 8, 2026**.

15. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

16. If approved by the Court, this Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

17. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation.

Dated: September 25, 2025.

GRAY REED

/s/ Drake M. Rayshell
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed October 1, 2025

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary Proceeding No. 25-03055-sgj
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

ORDER APPROVING STIPULATION REGARDING HIGHLAND CAPITAL MANAGEMENT, L.P.'S DEADLINE TO FILE RESPONSE TO PATRICK DAUGHERTY'S MOTION FOR STAY PENDING APPEAL

Upon consideration of the *Stipulation Regarding Highland Capital Management, L.P.'s*

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Deadline to File Response to Patrick Daugherty's Motion for Stay Pending Appeal [Adv. Proc. Docket No. 36] (the "Stipulation")[2] by and between Highland Capital Management, L.P. ("Highland"), plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), and Patrick Hagaman Daugherty ("Daugherty," and together with Highland, the "Parties"), it is **HEREBY ORDERED THAT:**

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. Highland's deadline to respond to the *Motion for Stay Pending Appeal* [Adv. Pro. Docket No. 33] (the "Stay Motion") is extended to **Monday, October 6, 2025**.

3. The Parties agree that the Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of the Stipulation and this Order.

###END OF ORDER###

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

APPROVED AS TO FORM AND SUBSTANCE:

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

GRAY REED

By: */s/ Drake M. Rayshell*
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel for Patrick Daugherty

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adv. Proc. No. 25-03055-sgj

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

STIPULATION REGARDING HIGHLAND CAPITAL MANAGEMENT, L.P.'S DEADLINE TO FILE RESPONSE TO PATRICK DAUGHERTY'S MOTION FOR STAY PENDING APPEAL

This stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. ("Highland") and defendant Patrick Daugherty ("Daugherty," and together with Highland, the "Parties"), by and through their respective undersigned counsel. Through this Stipulation, the Parties respectfully state and stipulate as follows:

RECITALS

WHEREAS, on May 2, 2025, Highland commenced the above-captioned adversary proceeding (the "Adversary Proceeding") by filing its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Adv. Pro. Docket No. 1] (the "Complaint").

WHEREAS, on June 4, 2025, Daugherty moved to dismiss the Complaint [Adv. Pro. Docket No. 5] (the "Motion to Dismiss") on the ground that it was to be stayed pursuant to the terms of that certain *Settlement Agreement* by and between Highland and Daugherty (the "Settlement Agreement") approved by the Bankruptcy Court in its *Order Approving Settlement Agreement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3298] (the "Settlement Order").

WHEREAS, on July 18, 2025, Highland filed its opposition to the Motion to Dismiss and cross-moved for relief from the Settlement Order [Adv. Pro. Docket Nos. 9 and 10] (the "Cross Motion") seeking to strike the stay provision from paragraph 9 of the Settlement Agreement.

WHEREAS, on August 8, 2025, Daugherty filed his opposition to the Cross Motion [Adv. Pro. Docket No. 15].

WHEREAS, on September 5, 2025, the Bankruptcy Court entered its *Order (A) Denying Patrick Daugherty's Motion to Dismiss and (B) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Pro. Docket No. 23] (the "9024 Order") granting the Cross Motion and denying the Motion to Dismiss.

WHEREAS, on September 19, 2025, Daugherty commenced his appeal of the 9024 Order (the "Appeal") by filing his *Notice of Appeal* [Adv. Pro. Docket No. 25].

WHEREAS, the Appeal has been docketed as civil action no. 3:25-cv-02584-E in the United States District Court for the Northern District of Texas, Dallas Division.

WHEREAS, on September 26, 2025, Daugherty filed with the Bankruptcy Court his *Motion for Stay Pending Appeal* [Adv. Pro. Docket No. 33] (the "Stay Motion") seeking, among other things, stays of (i) the Adversary Proceeding and (ii) enforcement of the 9024 Order.

WHEREAS, pursuant to Federal Rule of Bankruptcy Procedure 8013(a)(3)(A), Highland's deadline to respond to the Stay Motion is October 3, 2025.

WHEREAS, the Parties have conferred and are executing this Stipulation to clarify that Highland's deadline to respond to the Stay Motion shall be extended to Monday, October 6, 2025.

NOW, THEREFORE, IT IS HEREBY JOINTLY STIPULATED AND AGREED AS FOLLOWS:

1. Highland's deadline to respond to Daugherty's Stay Motion is extended to **Monday, October 6, 2025**.

2. This Stipulation may be executed in counterparts. A facsimile, electronic, or photocopy of this Stipulation and the signatures hereto shall have the same effect and may be accepted with the same authority as if it were an original.

3. The Parties agree that the Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Stipulation and any order related thereto.

[*Remainder of Page Intentionally Blank*]

Dated: October 1, 2025.

GRAY REED

/s/ Drake M. Rayshell
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on October 1, 2025, a true and correct copy of the foregoing Stipulation was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S ANSWER TO PLAINTIFF HIGHLAND CAPITAL MANAGEMENT, L.P.'S COMPLAINT FOR (1) DISALLOWANCE OF CLAIM NO. 205 IN ITS ENTIRETY, (2) ESTIMATION OF CLAIM NO. 205 FOR ALLOWANCE PURPOSES, OR (3) SUBORDINATION OF ANY ALLOWED PORTION OF CLAIM NO. 205 OF PATRICK HAGAMAN DAUGHERTY [DOC. NO. 1] AND ORIGINAL COUNTERCLAIM[2]

Defendant Patrick Daugherty files this Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Doc. No. 1] and Original Counterclaim and would respectfully show the Court as follows:

I. ANSWER TO PRELIMINARY STATEMENT

1. Daugherty admits that he is a former employee of, and former limited partner as a profits interest holder in, Highland. Daugherty admits that he asserted a creditor's claim (Claim No. 205) against Highland and that he and Highland entered into a binding settlement agreement. Daugherty denies the remaining allegations in Paragraph 1.

2. Daugherty denies the allegations in Paragraph 2 based on Highland's characterization of the funds Daugherty received from Highland and the effect of those funds on his claims.

3. Daugherty denies the allegations in Paragraph 3.

[2] Daugherty files this Answer and Counterclaim without waiving the rights and arguments he asserts in his September 26, 2025 Motion to Stay Pending Appeal [Doc. No. 33] currently pending before the Court, as well as his Motion to Dismiss [Doc. No. 5] which the Court denied on September 5, 2025 [Doc. No. 23].

4. Daugherty admits that his remaining claim against Highland depends, at least in part, on the result of the IRS' "final determination" of Highland's 2008 tax return. Daugherty denies the remaining allegations in Paragraph 4.

II. ANSWER TO JURISDICTION AND VENUE

5. Daugherty admits the allegations in Paragraph 5.

6. Daugherty admits the allegations in Paragraph 6.

7. Daugherty admits the allegations in Paragraph 7.

8. Daugherty admits the allegations in Paragraph 8.

III. ANSWER TO PARTIES

9. Daugherty admits the allegations in Paragraph 9.

10. Daugherty admits the allegations in Paragraph 10.

IV. ANSWER TO STATEMENT OF FACTS

11. Daugherty admits the allegations in Paragraph 11.

12. Daugherty admits the allegations in Paragraph 12.

13. Daugherty admits the allegations in Paragraph 13.

14. Daugherty admits the allegations in Paragraph 14.

15. Daugherty admits the allegations in Paragraph 15.

16. Daugherty admits that he was hired by Highland in 1998 and that he later became eligible to participate in various Highland incentive plans including Highland's long-term incentive plan. Daugherty denies the remaining allegations in Paragraph 16.

17. Daugherty admits the Highland was a limited partnership and a pass-through entity as alleged in Paragraph 17 but denies any actual or implied characterization that Daugherty's 2008

pre-tax refund was based on taxable losses or that he or any partner other that Dondero, Okada, and their affiliates were ever allowed to participate in pass-through distributions from Highland.

18. Daugherty admits that Highland provided him with the Comprehensive Compensation and Benefits Statement, but Daugherty denies the allegation that such statement was entirely accurate and reserves the right to dispute same.

19. Daugherty admits that the Comprehensive Compensation and Benefits Statement included a characterized estimated tax refund, but Daugherty denies the allegation that such statement was entirely accurate and reserves the right to dispute the same. Daugherty otherwise denies any remaining allegations in Paragraph 19.

20. In response to the allegations in Paragraph 20, Daugherty admits that Highland provided him with the Comprehensive Compensation and Benefits Statement, but Daugherty denies the allegation that such statement was entirely accurate and reserves the right to dispute same.

21. Daugherty denies the characterization of the allegations in Paragraph 21 to the extent that the quotes cited therein refer to non-binding statements or assertions made by or to Daugherty.

22. Daugherty admits that the allegations in Paragraph 22 reflect some of what was included on the 2008 K-1, but Daugherty denies the reference to him receiving what "he was promised . . . if not more" to the extent it refers to something that alters the relevant, binding contractual language.

23. Daugherty admits that the IRS began an audit of Highland's 2008 tax return but denies that all "obligations" to Daugherty have been satisfied. To the best of Daugherty's belief, the IRS audit is not yet fully resolved.

24. Daugherty admits that he terminated his employment with Highland on October 31, 2011, because of improprieties regarding treatment of investor accounts, among other things, but Daugherty denies the allegations to the extent Highland interprets them to constitute a waiver on Daugherty's behalf.

25. Daugherty admits that Claim No. 205 originally estimated Highland was liable to him for $2,650,353 among other costs. Daugherty otherwise denies the allegations in Paragraph 25.

26. Daugherty denies the allegations in Paragraph 26.

27. Daugherty denies the allegations in Paragraph 27.

V. ANSWER TO CLAIMS FOR RELIEF

28. Daugherty denies the allegations in Paragraph 28 to the extent they seek to present prior opinions and legal conclusions as statements of verifiable fact.

29. Paragraph 29 contains statements that are legal conclusions for which no response is required. To the extent a response is required Daugherty denies the allegations.

30. Paragraph 30 contains statements that are legal conclusions for which no response is required. To the extent a response is required Daugherty denies the allegations.

31. Daugherty admits that he earned bonus compensation from Highland in 2008 that was allocatable to him pursuant to Highland's decision to fund the bonus with the tax refund scheme, but Daugherty denies Highland's characterization of same in the allegations in Paragraph 31.

32. Daugherty denies the allegations in Paragraph 32.

33. Daugherty denies the allegations in Paragraph 33.

34. Daugherty denies the allegations in Paragraph 34 to the extent they seek to present prior opinions and legal conclusions as statements of verifiable fact.

35. Daugherty denies the allegations in Paragraph 35.

36. Paragraph 36 contains statements that are legal conclusions for which no response is required. To the extent a response is required Daugherty denies the allegations and further denies the statute governs given the express language of the settlement agreement between Daugherty and Highland.

37. Daugherty admits the allegations in the first sentence of Paragraph 37. Daugherty lacks information to admit or deny the second sentence of Paragraph 37 and therefore denies it.

38. Daugherty admits the allegations in Paragraph 38.

39. Daugherty denies the allegations (and requests for relief) in Paragraph 39.

40. Daugherty denies the allegations in Paragraph 40 to the extent they seek to present prior opinions and legal conclusions as statements of verifiable fact.

41. Paragraph 41 contains legal conclusions for which a response is not required. To the extent a response is required Daugherty denies the allegations.

42. Paragraph 42 contains legal conclusions for which a response is not required. To the extent a response is required, Daugherty denies the allegations.

43. Daugherty admits he owned the Partnership Interests in the form of a profits interest in Highland but denies the remaining allegations in Paragraph 43.

44. Daugherty denies the allegations in Paragraph 44.

45. Daugherty denies the allegations (and request for relief) in Paragraph 45.

VI. PRAYER

Daugherty denies that Highland is entitled to any of the relief requested in its Complaint, or to any relief whatsoever, and requests that Highland's claims be dismissed with prejudice. Daugherty further requests that the Court award it costs and any other relief the Court deems proper.

VII. AFFIRMATIVE DEFENSES

1. Further answering Highland's claims, Daugherty asserts the following defenses without assuming any burden that he would not otherwise have, including without admitting or acknowledging that he bears the burden of proof as to any of the defenses denoted herein.

Prior Material Breach

2. Highland's claims are barred in whole or in part by its prior material breach of the governing employment agreement as well as the settlement agreement previously approved by this Court.

Failure to State a Claim

3. Highland's claims are barred in whole or in part by their failure to state a claim upon which relief can be granted.

Equitable Estoppel

4. Highland's claims are barred in whole or in part by the doctrine of equitable estoppel. Highland and Daugherty entered into a binding settlement agreement wherein Daugherty gave up various rights and claims in exchange for a bargained-for agreement that Highland would not commence litigation under the IRS has concluded audit of Highland's 2008 tax return. Highland's decision to seek judicial modification of a binding contract prevents it from having the

equitable right to relief. Highland should be estopped from bringing the immediate litigation against Daugherty.

Failure of Consideration

5. Highland's claims fail because they are based upon a settlement agreement that was modified without consideration. Daugherty and Highland engaged in robust and detailed negotiations that ultimately culminated in the binding settlement agreement between the parties. Highland's decision to seek judicial modification of the settlement agreement—without providing substitute consideration to Daugherty—renders the Settlement Agreement unenforceable due to failure of consideration.

COUNTERCLAIM AGAINST PLAINTIFF/COUNTER DEFENDANT HIGHLAND CAPITAL MANAGEMENT, L.P.

Defendant/Counter-Plaintiff Patrick Hagaman Daugherty files this Original Counterclaim Against Plaintiff/Counter-Defendant Highland Capital Management, L.P. and would show the Court as follows:

PRELIMINARY STATEMENT

1. On November 22, 2021, Daugherty and Highland signed a Settlement Agreement wherein Daugherty acquired the "interests in HERA and ERA." The Settlement Agreement also mandated that Highland transfer the books and records of HERA (Highland Employee Retention Assets LLC) and ERA (Highland ERA Management LLC) that are "maintained on HCMLP's system." Despite demand, however, Highland refused and failed to turn over all books and records in its possession related to HERA and ERA – entities that Daugherty and his affiliates now own in their entirety. Highland's failure in this regard is a breach of the Settlement Agreement.

2. Daugherty's demand is even more urgent given Highland's latest filing in the main bankruptcy through which Highland seeks to destroy a significant amount of the records in its possession (under the guise of saving $7,500/month). As the Court is aware, there is extensive litigation between HERA and Dondero and his enablers in other forums. Daugherty bargained for and obtained the interests in HERA and acquired the rights to the HERA books and records in Highland's possession. HERA needs those books and records to continue litigating its claims against James Dondero and other former Highland employees and representatives. The Court should enforce the Settlement Agreement as written and require Highland to turn over to Daugherty what is rightfully his.

JURISDICTION AND VENUE

3. Jurisdiction and venue are proper in this Court for the reasons alleged and authorities cited in Highland's Complaint [Doc. No. 1] and pursuant to Federal Rule of Civil Procedure 13, as incorporated by Federal Rule of Bankruptcy Procedure 7013.

PARTIES

4. Defendant/Counter-Plaintiff Patrick Hagaman Daugherty is an individual residing in the State of Texas.

5. Plaintiff/Counter-Defendant Highland Capital Management, L.P. is a Delaware limited partnership with its principal place of business located at 100 Crescent Court, Suite 1850, Dallas, Texas 75201. Highland has appeared in this adversary proceeding through its attorneys of record.

FACTUAL BACKGROUND

6. Daugherty and Highland executed a Settlement Agreement on November 22, 2021, that provided clarity for both parties as the main bankruptcy case proceeded towards confirmation.

Main Case Docket No. 3088, 3089.[3] The Court approved the Settlement Agreement on March 8, 2022. *Id*.

7. Through the Settlement Agreement, Highland agreed to transfer to Daugherty Highland's interests in Highland Employee Retention Assets LLC ("HERA") and ERA Management, LLC ("ERA"). Specifically, the Settlement Agreement provided that, "[Highland] will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on [Highland's] system." *Id*.

8. The Settlement Agreement was not permissive or discretionary in this regard. The Settlement Agreement required that Highland "will" do these things. Since March 2022, however, Daugherty has made several requests to Highland that it comply with the Settlement Agreement by turning over all of the HERA and ERA books and records. To date, Highland has not complied – and in fact has refused to do so. Daugherty, therefore, brings this counterclaim against Highland.

CAUSES OF ACTION

Count I – Breach of Contract

9. Daugherty incorporates by reference the above paragraphs.

10. On November 22, 2021, after extensive negotiations, Daugherty and Highland executed a binding contract – the Settlement Agreement. The Court approved the Settlement Agreement on March 8, 2022.

11. Daugherty performed and satisfied all obligations that the Settlement Agreement imposed upon him.

[3] All capitalized terms used but not defined in this motion shall have the same definitions as they have in the Settlement Agreement at Main Case Doc. No. 3089. The Settlement Agreement is also attached as Exhibit A.

12. Highland breached the Settlement Agreement by refusing to turn over all the HERA and ERA books and records in Highland's possession. Settlement Agreement at ¶ 8 (Highland agreed to turn over to Daugherty all "interests in HERA and ERA to Daugherty…Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system.").

13. HERA is currently engaged in litigation with Dondero and others in the case styled *Highland Employee Retention Assets LLC v. James Donero, et al*., Civil Action No. 3:24-cv-00498-K, pending in the United States District Court for the Northern District of Texas. That litigation centers on Dondero's mismanagement of the monetary contributions that numerous Highland employees made into retirement vehicles managed by HERA. But because of Dondero's and others' underhanded efforts to fraudulently transfer assets to benefit themselves and others, those contributions were funneled out of HERA and into various entities and accounts controlled by Dondero, Okada, Ellington and their affiliates.

14. Daugherty bargained for and obtained Highland's interests in HERA as well as Highland's books and records related to HERA. There is no question that Highland breached the Settlement Agreement by refusing to turn over all of those books and records. And as evidenced by Highland's Motion for Order Authorizing Destruction of Documents filed in the main bankruptcy, Highland clearly has no intention of honoring its commitment to turn over documents. *See* Main Bankruptcy Doc. No. 4416. In fact, Highland wants to destroy the very records it contractually promised to turn over to Daugherty.

15. Daugherty asks this Court to find that Highland breached the Settlement Agreement.

Count II – Specific Performance

16. Daugherty incorporates by reference the above paragraphs.

17. The Settlement Agreement is a binding contract that Daugherty has not repudiated or breached.

18. Daugherty performed and satisfied all obligations that the Settlement Agreement imposed upon him.

19. Highland breached the Settlement Agreement by refusing to turn over all the HERA and ERA books and records in Highland's possession. Settlement Agreement at ¶ 8 (Highland agreed to turn over to Daugherty all "interests in HERA and ERA to Daugherty…Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system.").

20. At all relevant times, Daugherty has been ready, willing, and able to work with Highland to effectuate the transfer of the HERA and ERA books and records.

21. Because of Highland's unique position as the sole custodian of the HERA and ERA books and records that Highland agreed to turn over to Daugherty, the circumstances are such that Daugherty cannot recover absent the Court ordering specific performance. The Court's specific performance order against Highland would be the just result, as the balance of equities tips in favor of Daugherty. *See generally Osborn v. Kemp*, 991 A.2d 1153, 1158 (Del. 2010).

22. If the Court does not order Highland to comply with the terms of the Settlement Agreement and turn over the relevant books and records, Daugherty will be irreparably harmed. HERA will be unable to adequately pursue its litigation against Dondero, Okada, Ellington and the others.

Count III – Attorneys' Fees

23. Daugherty incorporates by reference the above paragraphs.

24. As a result of Highland's bad faith conduct and breach of the Settlement Agreement, Daugherty has been forced to retain the services of the undersigned counsel to pursue his claims in this case. Because Delaware law governs the Settlement Agreement, Daugherty asks the Court to award him his reasonable and necessary attorneys' fees due to Highland's bad faith conduct. *See generally Tandycrafts, Inc. v. Initio Partners*, 562 A.2d 1162, 1164 (Del. 1989); *see also Slawik v. State*, 480 A.2d 636, 639 n. 5 (Del. 1984). The requirements of the Settlement Agreement are clear – Highland "will" turn over the HERA and ERA books and records to Daugherty. In bad faith, Highland has refused to do so, and the Court should award Daugherty his attorneys' fees accordingly.

CONCLUSION AND PRAYER

Defendant Patrick Hagaman Daugherty prays that the Court render final judgment that Highland takes nothing by its suit and award Daugherty a judgment against Highland for:

a. Specific performance against Highland that it be required to turn over the books and records in its possession related to HERA and ERA;

b. Daugherty's actual and compensable damages, if any;

c. Daugherty's reasonable and necessary attorneys' fees;

d. All costs of court;

e. Post-judgment interest accruing on the foregoing amounts at the maximum rate allowed by law; and

f. Any such further relief, both general and specific, legal or equitable, to which Daugherty may be justly entitled.

Dated: October 3, 2025.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 3rd day of October 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
jpomerantz@pszjlaw.com
John A. Morris
jmorris@pszjlaw.com
Gregory V. Demo
gdemo@pszjlaw.com
Hayley R. Winograd
hwinograd@pszjlaw.com

HAYWARD PLLC
Melissa S. Hayward
MHayward@HaywardFirm.com
Zachery Z. Annable
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Suite 106
Dallas, Texas 75231
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

Counsel for Highland Capital Management, L.P.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT A

Final Execution Copy

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement") is made and entered into by and between (i) Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), and (ii) Patrick Hagaman Daugherty ("Daugherty" and together with HCMLP, the "Parties," and individually as a "Party"). This Settlement provides for the treatment of certain claims asserted by Daugherty against the Debtor, and for the Parties to take certain other specified actions in settlement thereof.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, the Debtor's chapter 11 case (the "Bankruptcy") is pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, on February 2 and 3, 2021, the Court conducted a confirmation hearing with respect to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) [Docket No. 1808] (the "Plan");

WHEREAS, on February 8, 2021, the Court rendered an opinion from the bench in which it confirmed the Plan [Docket No. 1924];

WHEREAS, on February 22, 2021, the Court issued an order confirming the Plan [Docket No. 1943];

WHEREAS, on August 11, 2021, the Effective Date (as defined in the Plan) occurred [Docket No. 2700];

WHEREAS, Daugherty is a former employee and limited partner of the Debtor and has

served in other positions with affiliates and former affiliates of the Debtor;

WHEREAS, at the time of his resignation, Daugherty owned 19.1% of the preferred units of Highland Employee Retention Assets LLC ("HERA"), an employee deferred compensation vehicle managed by the Debtor and Highland ERA Management, LLC ("ERA") and contends that he owned or had the right to own all of the preferred units of HERA;

WHEREAS, prior to his resignation from HCMLP, Daugherty was awarded units of HERA, which vehicle owned interests in Restoration Capital Partners, LP ("RCP"), an HCMLP managed private equity fund, and other investments;

WHEREAS, in April 2012, the Debtor commenced an action against Daugherty in Texas state court (the "Texas Action"), and Daugherty subsequently asserted counterclaims for breach of contract and defamation, and third-party claims against HERA and others;

WHEREAS, after a three-week trial, the jury returned a verdict partially in favor of the Debtor, but Daugherty prevailed on his claims against the Debtor and James Dondero ("Dondero") for defamation with malice and a third-party claim against HERA and was awarded damages of $2.6 million against HERA, plus prejudgment and post-judgment interest at 5% (the "HERA Judgment");[1]

WHEREAS, in July 2017, after being unable to collect on the HERA Judgment, Daugherty commenced an action against the Debtor, Dondero, HERA, and ERA Management in the Delaware Chancery Court (the "Delaware Court"), in a case captioned *Daugherty v. Highland Capital Management, L.P., et al.*, C.A. No. 2017-0488-MTZ, for fraudulent transfer, promissory estoppel, unjust enrichment, indemnification, and fees on fees (the "Highland Delaware Case");

[1] The Debtor prevailed on its claims against Mr. Daugherty for breach of contract and breach of fiduciary duty for non-monetary damages and obtained an award of $2.8 million in attorney's fees. The HERA Judgment was affirmed on appeal on December 1, 2016.

WHEREAS, the Delaware Court in the Highland Delaware Case (i) found that the Dondero-related defendants improperly withheld dozens of documents in discovery on privilege grounds, and (ii) ruled that there was "a reasonable basis to believe that a fraud has been perpetrated" such that the Delaware Court applied the "crime-fraud exception" to the attorney-client privilege assertion, and such rulings have not been overturned;

WHEREAS, Daugherty asserts that such withholding of documents and the failure to search defendants' and their employees personal electronic devices for stored documents and texts as well as other emails and domain names such as sasmgt.com and gmail.com which were in their possession and control and to provide required discovery injured him by undermining his attempts to build an evidentiary record to support his claims against the Debtor and the other defendants in the Highland Delaware Case;

WHEREAS, on October 14, 2019, the Highland Delaware Case proceeded to trial and two days later, on October 16, 2019, before the completion of the trial and before the Delaware Court ruled on Daugherty's and the Debtor's cross-motions for summary judgment regarding indemnification and fees on fees, the Debtor filed for bankruptcy;

WHEREAS, on December 1, 2019, Daugherty filed a separate lawsuit in the Delaware Court, captioned *Daugherty v. Dondero, et al.*, C.A. No. 2019-0956-MTZ, against Dondero, HERA, ERA, Hunton Andrews Kurth LLP ("Andrews Kurth"), Marc Katz ("Katz"), Michael Hurst ("Hurst"), the Debtor's Chief Compliance Officer, the Debtor's then in-house counsel (Isaac Leventon ("Leventon")), and the Debtor's then general counsel (Scott Ellington ("Ellington")), for conspiracy to commit fraud, among other claims (the "HERA Delaware Case" and together with the Highland Delaware Case, the "Delaware Cases");

WHEREAS, on April 1, 2020, Daugherty filed a general, unsecured, non-priority claim

against the Debtor in the amount of at "least $37,483,876.59," and such claim was denoted by the Debtor's claims agent as Proof of Claim No. 67 ("Proof of Claim No. 67");

WHEREAS, on April 6, 2020, Daugherty filed a general, unsecured, non-priority claim against the Debtor in the amount of at "least $37,482,876.62" that superseded Proof of Claim No. 67 and that was denoted by the Debtor's claims agent as Proof of Claim No. 77 ("Proof of Claim No. 77");

WHEREAS, on August 31, 2020, the Debtor commenced an adversary proceeding against Daugherty by filing a complaint (the "Complaint") in which the Debtor: (1) objected to Proof of Claim No. 77 on various grounds (the "Claim Objection"), and (2) asserted a cause of action for the subordination of part of Daugherty's claim pursuant to section 510(b) of the Bankruptcy Code. Adv. Proc. No. 20-03107 (the "Adv. Proc.") [Adv. Docket No. 1] (the "Adversary Proceeding");

WHEREAS, on September 29, 2020, Daugherty filed his answer to the Complaint [Adv. Docket No. 8] (the "Answer");

WHEREAS, on September 24, 2020, Daugherty filed his *Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay* [Docket No. 1099] (the "Stay Motion") pursuant to which he sought to sever the Debtor from the Highland Delaware Case and then consolidate the remaining claims in the Highland Delaware Case into the HERA Delaware Case and proceed with one case against the non-Debtor parties;[2]

WHEREAS, on October 23, 2020, Daugherty filed a motion seeking leave to amend his Proof of Claim No. 77 [Docket No. 1280] (the "POC Amendment Motion"). The amended proof

[2] On October 8, 2020, the Debtor commenced a second adversary proceeding against Daugherty (the "Second Adversary Proceeding"), seeking to enjoin him from prosecuting the Delaware Cases. Adv. Proc. 20-03128 ("2d Adv. Proc.") [2d Adv. Proc. Docket No. 1]. On January 29, 2021, the parties filed a Settlement that resolved the Second Adversary Proceeding, and the Second Adversary Proceeding was subsequently dismissed with prejudice. [2d Adv. Proc. Docket No. 12].

of claim attached to the POC Amendment Motion increased Daugherty's general, unsecured, non-priority claim against the Debtor to the amount of at "least $40,410,819.42" and sought to supersede Proof of Claim No. 67 and Proof of Claim No. 77;

WHEREAS, on October 23, 2020, Daugherty filed his *Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Motion*, seeking for his Claim to be temporarily allowed for voting purposes in this amount of $40,410,819.42 [Docket No. 1281] (the "3018 Motion");

WHEREAS, on November 3, 2020, the Court granted the Stay Motion [Docket No. 1327];

WHEREAS, the Debtor opposed the 3018 Motion, and after conducting an evidentiary hearing for the limited purpose of determining the 3018 Motion, the Court entered an order temporarily allowing Daugherty's Claim only for voting purposes in the amount of $9,134,019 [Docket No. 1474];

WHEREAS, on December 10, 2020, the Court entered an order [Docket No. 1533] granting the POC Amendment Motion, and Daugherty was permitted to file an amendment to his proof of claim. On December 23, 2020, Daugherty filed an amended proof of claim, designated by the Debtor's claim agent as Proof of Claim No. 205 ("Proof of Claim No. 205" or the "Daugherty Claim"). Proof of Claim No. 205 superseded Proof of Claim No. 77 and increased the amount of the Daugherty's Claim to $40,710,819.42;

WHEREAS, on November 30, 2020, Daugherty filed his Motion to Lift the Automatic Stay (the "Lift Stay Motion") [Docket No. 1491] seeking to lift the automatic stay to allow him to finish his trial in the Delaware Court and liquidate his claims. The Debtor opposed the Lift Stay Motion, and after a hearing was held on December 17, 2020, the Court denied the relief requested in the Lift Stay Motion [Docket No. 1612];

WHEREAS, except with respect to the Reserved Claim (as defined below), the Parties have agreed to settle and resolve all claims and disputes between them and their respective current affiliates, managed entities, and employees, including the Daugherty Claim, on the terms set forth in this Settlement:

AGREEMENT

NOW, THEREFORE, after good-faith, arms-length negotiations, and in consideration of the foregoing, it is hereby stipulated and agreed that:

1. Allowed Claims: In full satisfaction of the entirety of the Daugherty Claim against the Debtor and HCMLP Released Parties (defined below), excluding the Reserved Claim, Daugherty shall receive (a) an allowed general unsecured Class 8 claim in the amount of $8,250,000; (b) an allowed subordinated general unsecured Class 9 claim in the amount of $3,750,000; and (c) a one-time lump sum cash payment in the amount of $750,000 to be paid within 5 business days of Bankruptcy Court approval of this Settlement Agreement.

2. Recovery: The Debtor makes no representation or warranty as to the recovery on Class 8 or Class 9 claims under the Plan.

3. Observation Access: As soon as practicable following entry of an order of the Bankruptcy Court approving this Settlement, HCMLP shall use reasonable efforts to petition the Claimant Trust Oversight Board[3] to permit Daugherty to have access as an observer to meetings of the Claimant Trust Oversight Board, subject to policies, procedures, and agreements applicable to other observers of the Claimant Trust Oversight Board, including policies, procedures, and agreements related to confidentiality and common interest. Whether Daugherty will be granted observer access and any continuing observer access is and will remain at the sole discretion of the

[3] The Claimant Trust Oversight Board refers to the Oversight Board as defined in the August 11, 2021 Highland Claimant Trust Agreement establishing the Claimant Trust, as defined therein.

Claimant Trust Oversight Board.

4. RCP Track Record: HCMLP shall use reasonable efforts to provide Daugherty with data constituting the investment performance track record of RCP during Daugherty's tenure at HCMLP. Daugherty shall not be entitled to any compensation with respect to the performance of RCP. HCMLP makes no representations or warranties regarding such data and takes no responsibility with respect to the use of such data for any purposes.

5. Daugherty Releases: Except as specifically provided in this paragraph 5, and to the maximum extent permitted by applicable law, the Debtor, on behalf of itself and each of the HCMLP Entities and HCMLP Parties (as those terms are defined in paragraph 6 below), hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue Daugherty, his successors, affiliates, and assigns, (and in each such category to include their respective advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, and designees) (collectively, the "Daugherty Additional Release Parties" and together with Daugherty, the "Daugherty Released Parties"), in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, or the Delaware Cases, all existing as of the date hereof (collectively, the "HCMLP Released Claims"); provided, however, that such release shall not

apply with respect to any and all defenses that HCMLP or the HCMLP Entities may have to the Reserved Claim or the Reserve Motion (as those terms are defined herein) or Daugherty's obligations under this Settlement. For the avoidance of doubt, the HCMLP Released Claims include all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

6. HCMLP Releases: Except as specifically provided in this paragraph 6, and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Released Parties, hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (a)(i) HCMLP; (ii) Strand Advisors Inc.; (iii) the Claimant Trust; (iv) the Claimant Trust Oversight Board; (v) the Highland Litigation Sub-Trust; (vi) the Highland Indemnity Trust; (vii) any entity of which greater than fifty percent of the voting ownership is held directly or indirectly by HCMLP as of the date hereof and any entity otherwise directly or indirectly controlled by HCMLP as of the date hereof,; and (viii) any entity managed by either HCMLP or a direct or indirect subsidiary of HCMLP, including Highland Restoration Capital Partners, L.P., Highland Restoration Capital Partners Offshore, L.P., Highland Restoration Capital Master, L.P. (and all of their respective general partners, feeder funds, managers, and affiliates) (the foregoing (a)(i) through (a)(viii) the "HCMLP Entities"), and (b) with respect to each such HCMLP Entity, such HCMLP Entity's respective current (meaning employed in their respective roles as of the date hereof) advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders (but not the shareholders of Strand Advisors Inc.), agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns, except as expressly set forth below (the "HCMLP Parties," and together with the

HCMLP Entities, the "HCMLP Released Parties"),[4] in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, or the Highland Delaware Case (collectively, the "Daugherty Released Claims"); provided, however, that such release shall not apply with respect to the Reserved Claim or the Reserve Motion (as those terms are defined in paragraph 9 below) or HCMLP's obligations under this Settlement. This release expressly applies to all current employees of HCMLP as the Reorganized Debtor (as defined in the Plan), in their capacities as such. For the avoidance of doubt, the Daugherty Released Claims includes all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

7. Reservation of Daugherty Rights: Notwithstanding anything contained herein to the contrary, the term HCMLP Released Parties shall not include (a) NexPoint Advisors, L.P. (or any of its subsidiaries and employees, advisors, or agents), (b) the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and any of their respective employees, advisors, or agents), (c) NexBank, SSB (or any of its subsidiaries, employees, advisors, or agents), (d) James Dondero or any trust in which Dondero or any of his family members are a trustee or beneficiary (or any trustee acting for such trust), including but not limited to Hunter

[4] The Daugherty Additional Released Parties and the HCMLP Released Parties are collectively referred to as the "Additional Released Parties."

Mountain Investment Trust, The Get Good Trust, Dugaboy Investment Trust, SLHC Investment Trust, (e) HERA (subject to paragraph 8 below), (f) ERA (subject to paragraph 8 below), (g) Grant Scott, (h) Mark Okada and any trust in which Mark Okada or any of his family members are a beneficiary (or any trustee acting for such trust in their respective capacities), (i) Ellington, (j) Leventon, (k) Katz, (l) Hurst, (m) Andrews Kurth, or (m) any other former employee (as of the date hereof) of the HCMLP Released Parties.

8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

10. Current HCMLP Employees: The HCMLP Parties set forth on **Appendix A** hereto are currently employed by the Debtor are HCMLP Released Parties. By executing a copy of this Settlement and delivering it to Daugherty, each of the persons on Appendix A agrees not to sue, attempt to sue, or threaten or work with or assist any entity or person to sue, attempt to sue, or threaten any Daugherty Released Party on or in connection with any claim or cause of action arising prior to the date of this Settlement.

11. Dismissal and Motions in Other Actions. Within ten business days after approval of this Settlement by the Bankruptcy Court, the Parties shall take all steps necessary (a) to dismiss with prejudice (i) the Highland Delaware Case, as against the Debtor and any HCMLP Released Party, and (ii) the HERA Delaware Case, as against every HCMLP Released Party, (b) to file an agreed motion and proposed order to partially vacate the final judgment entered against Daugherty

in the Texas Action, (c) withdraw HCMLP's objection to the Daugherty motion to recuse in the Texas Action, and (d) to dismiss the Adversary Proceeding with prejudice. The parties shall file the foregoing motions and withdrawals substantially in the form of the documents annexed hereto as **Exhibit B**.

12. Additional Third Party Claims Discovery: The Debtor (a) shall accept service of any subpoenas via email served by Daugherty in connection with the Delaware Cases on behalf of itself, the HCMLP Entities, the HCMLP Parties (but only in their capacity as employees of HCMLP); and (b) acknowledge and consent to the jurisdiction of the Delaware Chancery Court for purposes of enforcing any such subpoenas, subject in all respects to the rights that the HCMLP Entities and HCMLP Parties to defend the requested production, if any.

13. Settlement of Third Party Claims: Daugherty shall not settle any claims or causes of action against any current or former director, officer, employee, agent or representative of HCMLP or Strand Advisors Inc. (collectively, the "Potentially Indemnified Parties") to the extent such claims have been brought or could have been brought against any Potentially Indemnified Parties, if any such settlement designates, defines or describes the settled claims as arising out of or relating to simple negligence or as having otherwise been within the scope of employment of the Potentially Indemnified Party.

14. Claims Register: As soon as practicable after the Settlement Effective Date, HCMLP shall instruct the claims agent in the Debtor's chapter 11 case to adjust the claims register in accordance with this Settlement.

15. Daugherty Representations: Daugherty represents and warrants to each of the HCMLP Released Parties that (a) he has full authority to release the Daugherty Released Claims and has not sold, transferred, or assigned any Daugherty Released Claim to any other person or

entity and that (b) no person or entity other than Daugherty has been, is, or will be authorized to bring, pursue, or enforce any Daugherty Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) Daugherty.

16. HCMLP Representations: Each of HCMLP and each HCMLP Released Party who has signed this Settlement represents and warrants to Daugherty that (a) he, she or it has not sold, transferred, pledged, assigned or hypothecated any HCMLP Released Claim to any other person or entity and (b) he, she, or it has full authority to release any HCMLP Released Claims that such HCMLP Released Party personally has against Daugherty.

17. Additional HCMLP Representations: HCMLP represents and warrants that it is releasing the HCMLP Released Claims on behalf of the HCMLP Entities to the maximum extent permitted by any contractual or other legal rights HCMLP possesses. To the extent any of the HCMLP Entities dispute HCMLP's right to release the HCMLP Released Claims on behalf of any of the HCMLP Entities, HCMLP shall use commercially reasonable efforts to support Daugherty's position, if any, that such claims were released herein. For the avoidance of doubt, HCMLP will have no obligations to assist Daugherty under this paragraph if HCMLP has been advised by external counsel that such assistance could subject HCMLP to liability to any third party or if such assistance would require HCMLP to expend material amounts of time or money. HCMLP shall not argue in any forum that the non-signatory status of any of the HCMLP Entities to this Settlement shall in any way affect the enforceability of this Settlement vis-à-vis any of the HCMLP Entities. The Parties agree that all of the HCMLP Entities are intended third-party beneficiaries of this Release.

18. HCMLP Covenant: HCMLP and the HCMLP Entities covenant and agree that they will not pursue or seek to enforce any injunctions entered in the Texas Action against

Daugherty.

19. Entire Agreement; Modification: This Settlement contains the entire agreement between the Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between the Parties. This Settlement may not be modified other than by a signed writing executed by the Parties.

20. Bankruptcy Court Approval: Notwithstanding anything to the contrary contained herein, the effectiveness of HCMLP and the Claimant Trust's execution of this Settlement shall be subject to entry of an order of the Bankruptcy Court approving this Settlement. HCMLP shall take all steps necessary to file with the Bankruptcy Court a motion for an order approving this Settlement pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code (the "Motion"). The parties agree to cooperate in the preparation and prosecution of the Motion which shall be filed no later than 5 business day after execution of this Settlement, unless such time is extended by mutual agreement.

21. Counterparts: This Settlement may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument and shall be effective against a Party or Additional Released Party upon approval of the Settlement by the Bankruptcy Court.

22. Governing Law; Jurisdiction: This Settlement will be exclusively governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles, and all claims relating to or arising out of this Settlement, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of Delaware, excluding Delaware's conflicts of law principles. The Bankruptcy Court will retain exclusive jurisdiction over all disputes relating to this Settlement.

23. Headings: Paragraph headings included herein are for convenience and shall have no impact whatsoever on the meaning or interpretation of any part of this Settlement.

[Remainder of page intentionally left blank]

In witness whereof, the parties hereto, intending to be legally bound, have executed this Settlement as of the day and year set forth below:

Dated: 11-24-21

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____

Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND CLAIMANT TRUST

By: _____

Name: James P. Seery, Jr.
Title: Claimant Trustee

Dated: 11/22/21

PATRICK HAGAMAN DAUGHERTY

By: _____

Name: Patrick Hagaman Daugherty

EXHIBIT A

HERA RELEASE AGREEMENT

This HERA Release Agreement ("HERA Release Agreement") is entered into as of November 21, 2021 by and among Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), Patrick Hagaman Daugherty ("Daugherty"), Highland Employee Retention Assets, LLC ("HERA") and Highland ERA Management, LLC ("ERA" and together with HCMLP, and HERA, the "Parties," and individually as a "Party").

WHEREAS, reference is hereby made to the Settlement Agreement (the "Settlement") of even date herewith and attached hereto made and entered into by and between the Debtor, the Highland Claimant Trust, and Daugherty.

WHEREAS, the Settlement settles all of Daugherty's claims against the HCMLP Released Parties, including all claims against the HCMLP Released Parties relating to transfers of assets from HERA.

WHEREAS, the Settlement includes, among other things, the transfer by HCMLP to Daugherty of HCMLP's interests in HERA and ERA.

WHEREAS, under the Settlement such transfer is being made without any liability to any of the HCMLP Released Parties of any type and is conditional on the full release of, and covenant not to sue, each of the HCMLP Released Parties, by and from HERA, ERA, Daugherty and the Daugherty Released Parties.

WHEREAS, neither HERA nor ERA filed proofs of claim in the Bankrupty and have no claims against HCMLP.

WHEREAS, out of an abundance of caution to confirm that HERA, ERA, Daugherty, and the Daugherty Released Parties have no claims against the HCMLP Released Parties, this HERA Release Agreement is being entered into contemporaneously with the Settlement and constitutes an

essential part thereof.

WHEREAS, capitalized terms used herein but not otherwise defined herein have the respective meanings set forth in the Settlement.

NOW, THEREFORE, in consideration of the entry into of the Settlement, the transfer of the equity interests in HERA and ERA to Daugherty in accordance with the Settlement, and for other good and valuable consideration, including the provisions set forth herein, the parties hereto further agree as follows:

1. Upon entry of an order of the Bankruptcy Court approving this Settlement and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Additional Release Parties, together with each of HERA and ERA (Daugherty, the Daugherty Additional Release Parties, HERA and ERA shall be collectively referred to herein as the "HERA Releasing Parties"), each hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, any of the HCMLP Released Parties for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, Highland Delaware Case, or the HERA Delaware Case (collectively, "Claims"), in each case that in any way arise from or otherwise in any way relate to HERA or ERA, including, without limitation, any actual or potential claims, whether known or unknown, in any way related to or

arising out of the formation, management, operation or assets of HERA, ERA or any of their respective predecessors or successors, including the transfer of any assets to or from HERA or ERA, it being understood that all remaining assets of HERA have been transferred to HCMLP prior to the date hereof, and in addition to the releases set forth above, each of the HERA Releasing Parties irrevocably waives and releases and covenants not to sue with respect to any Claims against any of the HCMLP Released Parties in any way related to any such transfers or assets, whether *in personam* with respect to the HCMLP Released Parties or *in rem* with respect to any of their assets (collectively, the "HERA Released Claims") or any other Disposition.

2. This Release constitutes a part of, and is supplemental to, the provisions of the Settlement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

In witness whereof, the parties hereto, intending to be legally bound, have executed this HERA Release Agreement as of the date set forth above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

PATRICK HAGAMAN DAUGHERTY

By: _____
Name: Patrick Hagaman Daugherty

HIGHLAND EMPLOYEE RETENTION ASSETS, LLC

By: Highland ERA Management, LLC, its manager

By: Highland Capital Management, LP

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND ERA MANAGEMENT, LLC

By: _____
Name: James P. Seery, Jr.
Title: Authorized Signatory

EXHIBIT B

CAUSE NO. 12-04005		
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**IN THE DISTRICT COURT OF**
Plaintiffs,	§	
v.	§	
PATRICK DAUGHERTY,	§	
Defendant and Counter-Plaintiff,	§	**DALLAS COUNTY, TEXAS**
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	
Third-Party Defendants.	§	
	§	**68th JUDICIAL DISTRICT**

AGREED MOTION TO PARTIALLY VACATE THE FINAL JUDGMENT DATED JULY 14, 2014

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Highland Capital Management, LP ("Highland") and Defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties") file this *Agreed Motion to Partially Vacate the Final Judgment dated July 14, 2014* (the "Motion"), and respectfully show the following:

1. On July 14, 2014, this Court entered a *Final Judgment* (the "Judgment") that, among other things, granted Highland's motion for injunctive relief against Daugherty.

2. The Judgment was amended on March 23, and June 23, 2017.

3. On October 16, 2019, filed a petition under chapter 11 in the United States Bankruptcy Court for the District of Delaware ("Highland's Bankruptcy Case"). On October 24,

2019, as a result of the commencement of Highland's Bankruptcy Case, the Supreme Court of Texas issued an order abating a related case that Daugherty had brought in that court, Case No. 19-0758. Highland's Bankruptcy Case was subsequently transferred to the United States Bankruptcy Court for the Northern District of Texas.

4. Daugherty asserted certain claims against Highland in Highland's Bankruptcy Case. The Parties have fully and finally resolved their disputes pursuant to a settlement agreement (the "Settlement Agreement") reached in the Highland Bankruptcy Case pursuant to which, among other things, (a) all of Daugherty's known and unknown claims against each of the Highland Released Parties (as those terms are defined in the Settlement Agreement) are resolved, and (b) this Motion seeking the *vacatur* of certain provisions of the Judgment specifically set forth below is being filed.

5. Highland and Daugherty hereby agree and stipulate that the Court has plenary power to issue an order granting this Motion because the Court retained authority to enforce the permanent injunction rendered in the Judgment, and that changed circumstances have now arisen such that the Court should dissolve the permanent injunction. Highland and Daugherty further agree and stipulate that this Motion shall be treated as an agreement of the Parties pursuant to Texas Rule of Civil Procedure 11, and is fully enforceable. *See Coale v. Scott*, 331 S.W.3d 829, 831-32 (Tex. App.—Amarillo 2011, no pet.) ("Irrespective of whether a trial court lost its plenary jurisdiction over its judgment, the trial court's authority to approve a Rule 11 agreement does not depend on whether it has such jurisdiction.").

6. Highland and Daugherty agree that the following portions of the Judgment shall be vacated pursuant to their settlement in the Highland Bankruptcy:

a. The second full paragraph on Page 2 of the Judgment, which begins "The Court, after considering the jury's findings regarding Daugherty's breaches of contract and breaches of fiduciary duty . . .";

b. The permanent injunction rendered against Daugherty in the third full paragraph on Page 2 of the Judgment, which begins "It is therefore further ORDERED that Daugherty be and hereby is commanded to cease and desist from . . .";

c. The fourth and fifth full paragraphs on Page 2 of the Judgment awarding Highland a monetary judgment against Daugherty for reasonable and necessary attorney's fees, as well as post-judgment interest on that award[1]; and

d. The jury's answers to Questions 1, 2, 5, 6, 9 and 12 in the Verdict, which was attached as Exhibit 1 to the Judgment.

7. Highland and Daugherty further agree that, as a result of the vacation of the permanent injunction in the Judgment, Highland hereby withdraws any pending motions to show cause or motions for contempt against Daugherty that allege Daugherty violated or is violating the permanent injunction. Highland also agrees not to seek to enforce the permanent injunction in any manner in the future.

[1] Daugherty previously satisfied the monetary judgment awarded to Highland, and Highland filed a release of the monetary judgment. Although Highland and Daugherty have agreed to vacate the monetary judgment awarded to Highland, Daugherty waives and relinquishes any right or claim to recover any amount previously paid in satisfaction of the Judgment and Highland shall not be required to reimburse Daugherty for his prior satisfaction of the monetary judgment. To the extent Daugherty is entitled to indemnification for any liabilities, losses, and damages allegedly incurred by him for actions taken in connection with Highland's business, including the liabilities Daugherty allegedly incurred in connection with this action and the Judgment, such indemnification claims have been fully and finally satisfied and resolved under the Settlement Agreement.

8. Concurrent with the filing of this Motion, Daugherty will file a motion to dismiss his as-yet unfiled petition for review pending before the Supreme Court of Texas under Case No. 19-0758.

9. Highland and Daugherty further agree that any portions of the Judgment that are not specifically vacated pursuant to this Motion shall remain in full force and effect.

WHEREFORE, Highland and Daugherty pray that the Court grant this Motion in its entirety, and for all further relief, at law or in equity, the Court deems necessary.

Respectfully submitted,

GRAY REED & McGRAW LLP

By: */s/ Sonya D. Reddy*

ANDREW K. YORK
State Bar No. 24051554
E-mail: dyork@grayreed.com
SONYA D. REDDY
State Bar No. 24079188
E-mail: sreddy@grayreed.com

1601 Elm Street, Suite 4600
Dallas, Texas 75201
(214) 954-4135
(214) 953-1332 (Fax)

ATTORNEYS FOR PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been transmitted by electronic transmission to all counsel of record on February ___, 2021, as follows:

Marc D. Katz
Crystal J. Woods
DLA PIPER LLP (US)
1717 Main St., Suite 3700
Dallas, Texas 75201
214-743-4545 (Fax)
marc.katz@dlapiper.com
crystal.woods@dlapiper.com

Attorneys for Highland Capital Management, L.P.

Michael K. Hurst
A. Shonn Brown
Jonathan Childers
LYNN PINKER COX HURST, LLP
2100 Ross Ave., Suite 2700
Dallas, Texas 75201
(214) 981-3839 (Fax)
mhurst@lynnllp.com
sbrown@ lynnllp.com
jchilders@ lynnllp.com

Attorneys for Third-Party Defendants HERA, Patrick Boyce, and William Britain

/s/ Sonya D. Reddy
SONYA D. REDDY

APPENDIX A (signatures to follow)

1. James P. Seery, Jr.
2. Cameron Baynard
3. Nathan Burns
4. Timothy Cournoyer
5. Naomi Chisum
6. Stetson Clark
7. Sean Fox
8. Matthew Gray
9. Kristin Hendrix
10. David Klos
11. Vishal Patel
12. Thomas Surgent
13. Michael Throckmorton

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that the following counsel from the law firm of Gray Reed & McGraw LLP hereby enters his appearance as additional counsel of record for Defendant Patrick Hagaman Daugherty:

J. Reid Burley
State Bar No. 24109675
Email: rburley@grayreed.com

The address, telephone number, and facsimile number for Daugherty's counsel are provided below.

Dated: October 3, 2025.

Respectfully submitted,

GRAY REED

By: */s/ J. Reid Burley*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 3rd day of October 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
jpomerantz@pszjlaw.com
John A. Morris
jmorris@pszjlaw.com
Gregory V. Demo
gdemo@pszjlaw.com
Hayley R. Winograd
hwinograd@pszjlaw.com

HAYWARD PLLC
Melissa S. Hayward
MHayward@HaywardFirm.com
Zachery Z. Annable
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Suite 106
Dallas, Texas 75231
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

Counsel for Highland Capital Management, L.P.

/s/ J. Reid Burley
J. REID BURLEY

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Fed. R. Bankr. P. 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the *Order (A) Denying Patrick Daugherty's Motion to Dismiss and (B) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Docket No. 23 in Adversary No. 25-03055], to the extent it granted relief under Federal Rule of Bankruptcy Procedure 9024 and Federal Rule of Civil Procedure 60(b). *See Notice of Appeal* [Docket No. 25 in Adversary No. 25-03055].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

2. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, *inter alia*, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

1. Notice of Appeal for Adversary No. 25-03055 [Docket No. 25].

2. The Judgment Order or Decree appealed from: *Order (a) Denying Patrick Daugherty's Motion to Dismiss and (b) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Docket No. 23 in Adversary No. 25-03055].

3. Any opinion, findings of fact and conclusions of law of the bankruptcy court relating to the issues on appeal, including transcripts of all oral rulings: Transcript regarding hearing held September 4, 2025 before Judge Stacey C.G. Jernigan re: Patrick Daugherty's Motion to Dismiss; Highland's Cross Motion for Relief from Final Order [Docket No. 35].

4. Docket Sheet for Adversary Case No. 25-03055 kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 19-34054-sgj11:

Date	Docket	Description
05/02/2025	1	Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet).
06/04/2025	5	Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)
07/18/2025	9	Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order)
07/18/2025	10	Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order)
07/18/2025	11	Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s) 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4)
08/08/2025	15	Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty.
08/15/2025	16	Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P..
08/29/2025	19	Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit)

Date	Docket	Description
09/04/2025	20	Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s) 5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1)
09/05/2025	23	Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025.
09/19/2025	25	Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)
09/30/2025	35	Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s) 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s) 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this Designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver, of any and all rights, remedies, challenges and objections.

Respectfully submitted this 3rd day of October 2025.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 3rd day of October 2025, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed October 1, 2025

United States Bankruptcy Judge

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adversary Proceeding No. 25-03055-sgj

ORDER APPROVING STIPULATED SCHEDULING ORDER

Upon consideration of the *Stipulated Scheduling Order* [Adv. Proc. Docket No. 31] (the "Stipulation")[2] by and between Highland Capital Management, L.P. ("Highland"), the reorganized

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

debtor in the above-captioned chapter 11 case (the "Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), and Patrick Hagaman Daugherty ("Daugherty," and together with Highland, the "Parties"), it is **HEREBY ORDERED THAT:**

1. The Stipulation, [3] a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. On or before **October 3, 2025**, Daugherty shall serve and file his answer to the Complaint.

3. The Parties shall serve their written discovery requests (including document requests, interrogatories, and requests for admission) (the "Discovery Requests") on the other Party on or before **October 24, 2025**, after which no further Discovery Requests shall be served on another Party absent a Court order entered on reasonable notice and upon a showing of good cause.

4. The Parties shall (a) serve written responses and objections to any Discovery Requests on or before **November 21, 2025**, and (b) be substantially complete with document production on or before **December 12, 2025**.

5. Subpoenas for third-party discovery (including written discovery and depositions) shall be served on or before **December 19, 2025**.

6. Fact depositions shall be taken by video between **January 5 and January 30, 2026**. The Parties shall be limited to five (5) fact depositions per side (except that if multiple corporate representatives are designated, those shall collectively count as one fact deposition), and each fact deposition shall be limited to five (5) hours of testimony, absent further Court order made after reasonable notice and upon good cause shown.

[3] As noted in the Stipulation, Daugherty's agreement to the Stipulation is subject to, and without waiving, his Notice of Appeal [Adv. Pro. Docket No. 25] of the Court's Order [Adv. Pro. Docket No. 23], filed September 19, 2025.

7. The Parties shall confer in good faith as to the identity of witnesses they seek to depose. Notwithstanding the provisions of paragraph 6 of this Order, in an effort to be efficient, reduce the burden on third parties, and avoid motion practice, if the Parties intend to depose the same witness, they shall do so in one day, with Highland having up to three (3) hours of testimony and Daugherty having up to four (4) hours of testimony.

8. Fact discovery (including third-party discovery) shall be completed by **January 30, 2026; provided, however,** that if a third-party fact witness is unavailable (or refuses to appear) for deposition on or before January 30, 2026, then the deadline for completing third-party witness depositions shall be extended to February 13, 2026, or such later date as the Court may order after reasonable notice and upon good cause shown.

9. On or before **February 13, 2026**, the Parties shall disclose the identity of any retained expert witness they intend to call at trial, and (b) serve the expert's report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

10. On or before **March 6, 2026**, the Parties shall disclose the identity of any retained rebuttal expert witness they intend to call at trial, and (b) serve the expert's rebuttal report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

11. Expert depositions and expert discovery shall be completed by **March 23, 2026**.

12. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **March 25, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **March 30, 2026**, or they shall be deemed waived.

13. A joint pretrial order in compliance with the Court's Local Rules shall be filed on or before **April 1, 2026**.

14. Any Party wishing to file a trial brief shall file and serve the same on or before **April 3, 2026**.

15. A one-day evidentiary hearing will be held in person before the Court beginning at **9:30 a.m. (Central Time)** on **April 8, 2026**.

16. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

17. The schedule set forth in the Stipulation and this Order shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

18. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Stipulation and this Order.

###END OF ORDER###

APPROVED AS TO FORM AND
SUBSTANCE:

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

GRAY REED

By: */s/ Drake M. Rayshell*
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel for Patrick Daugherty

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

STIPULATED SCHEDULING ORDER

This stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. (the "Highland" or the "Debtor") and defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties"), by and through their respective undersigned counsel, to establish certain deadlines pertaining to the litigation of claims asserted in Highland's *Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Adv. Pro. Docket No. 1] (the "Complaint"), provided that Daugherty's agreement to this Stipulation is made subject to, and without waiving, his Notice of Appeal [Adv. Pro. Docket No. 25] of the Court's Order [Adv. Pro. Docket No. 23], filed September 19, 2025.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court"). Bankr. Docket No. 186.

WHEREAS, on April 1, 2020, Daugherty filed Proof of Claim No. 67 ("Claim 67"), which was superseded and replaced by Proof of Claim No. 77 ("Claim 77").

WHEREAS, on December 23, 2020, Daugherty filed Proof of Claim 205 (the "Claim" or

"Claim 205"), which superseded and replaced Claim 77 in its entirety.

WHEREAS, on February 22, 2021, the Bankruptcy Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943] (the "Confirmation Order") which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P., as Modified* [Bankr. Docket No. 1808] (the "Plan").

WHEREAS, on December 8, 2021, the Debtor filed *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the "Settlement Motion").

WHEREAS, on March 8, 2022, the Bankruptcy Court granted the Settlement Motion [Bankr. Docket No. 3298] (the "Settlement Order"), disallowing Claim 67 and Claim 77 with prejudice and resolving all of Claim 205 other than Daugherty's Reserved Claim (as defined in the Parties' *Settlement Agreement* approved by the Settlement Order).

WHEREAS, on May 2, 2025, Highland commenced the Adversary Proceeding by filing the Complaint to disallow, estimate or subordinate Daugherty's Reserved Claim.

WHEREAS, on June 4, 2025, Daugherty moved to dismiss the Complaint on the ground that it was to be stayed pursuant to the Parties' Settlement Agreement [Adv. Pro. Docket No. 5] (the "Motion to Dismiss").

WHEREAS, on July 18, 2025, Highland filed its opposition to the Motion to Dismiss and cross-moved for relief from the Settlement Order [Adv. Pro. Docket Nos. 9 and 10] (the "Cross Motion") seeking to strike the stay provision from paragraph 9 of the Settlement Agreement.

WHEREAS, on August 8, 2025, Daugherty filed his opposition to the Cross Motion [Adv. Pro. Docket No. 15].

WHEREAS, on September 4, 2025, after further briefing and oral argument, the Bankruptcy Court granted the Cross Motion, denied the Motion to Dismiss, and requested the Parties confer on a scheduling order for this litigation.

WHEREAS, the Parties have conferred and desire to enter into the proposed scheduling order set forth below.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Bankruptcy Court, it shall be SO ORDERED:

1. On or before **October 3, 2025**, Daugherty shall serve and file his answer to the Complaint.

2. The Parties shall serve their written discovery requests (including document requests, interrogatories, and requests for admission) (the "Discovery Requests") on the other Party on or before **October 24, 2025**, after which no further Discovery Requests shall be served on another Party absent a Court order entered on reasonable notice and upon a showing of good cause.

3. The Parties shall (a) serve written responses and objections to any Discovery Requests on or before **November 21, 2025**, and (b) be substantially complete with document production on or before **December 12, 2025**.

4. Subpoenas for third-party discovery (including written discovery and depositions) shall be served on or before **December 19, 2025**.

5. Fact depositions shall be taken by video between **January 5 and January 30, 2026**. The Parties shall be limited to five (5) fact depositions per side (except that if multiple corporate representatives are designated, those shall collectively count as one fact deposition), and each fact

deposition shall be limited to five (5) hours of testimony, absent further Court order made after reasonable notice and upon good cause shown.

6. The Parties shall confer in good faith as to the identity of witnesses they seek to depose. Notwithstanding the provisions of paragraph 5, in an effort to be efficient, reduce the burden on third parties, and avoid motion practice, if the Parties intend to depose the same witness, they shall do so in one day, with Highland having up to three (3) hours of testimony and Daugherty having up to four (4) hours of testimony.

7. Fact discovery (including third-party discovery) shall be completed by **January 30, 2026; provided, however,** that if a third-party fact witness is unavailable (or refuses to appear) for deposition on or before January 30, 2026, then the deadline for completing third-party witness depositions shall be extended to February 13, 2026, or such later date as the Court may order after reasonable notice and upon good cause shown.

8. On or before **February 13, 2026**, the Parties shall disclose the identity of any retained expert witness they intend to call at trial, and (b) serve the expert's report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

9. On or before **March 6, 2026**, the Parties shall disclose the identity of any retained rebuttal expert witness they intend to call at trial, and (b) serve the expert's rebuttal report in compliance with Federal Rule of Civil Procedure 26(a)(2)(B).

10. Expert depositions and expert discovery shall be completed by **March 23, 2026**.

11. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **March 25, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **March 30, 2026**, or they shall be deemed waived.

12. A joint pretrial order in compliance with the Court's Local Rules shall be filed on or before **April 1, 2026**.

13. Any Party wishing to file a trial brief shall file and serve the same on or before **April 3, 2026**.

14. A one-day evidentiary hearing will be held in person before the Court on **April 8, 2026**.

15. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

16. If approved by the Court, this Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

17. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation.

Dated: September 25, 2025.

GRAY REED

/s/ Drake M. Rayshell
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-sgj

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Oct 02, 2025 Form ID: pdf001 Total Noticed: 5

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 04, 2025:

Recip ID		Recipient Name and Address
dft	+	Patrick Hagaman Daugherty, 3621 Cornell Avenue, Suite 830, Dallas, TX 75205-2818

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Oct 02 2025 21:57:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Oct 02 2025 21:57:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Oct 02 2025 21:57:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Oct 02 2025 21:57:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 04, 2025 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 1, 2025 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 3

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed October 1, 2025

United States Bankruptcy Judge

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adversary Proceeding No. 25-03055-sgj

ORDER APPROVING STIPULATION REGARDING HIGHLAND CAPITAL MANAGEMENT, L.P.'S DEADLINE TO FILE RESPONSE TO PATRICK DAUGHERTY'S MOTION FOR STAY PENDING APPEAL

Upon consideration of the *Stipulation Regarding Highland Capital Management, L.P.'s*

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Deadline to File Response to Patrick Daugherty's Motion for Stay Pending Appeal [Adv. Proc. Docket No. 36] (the "Stipulation")[2] by and between Highland Capital Management, L.P. ("Highland"), plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), and Patrick Hagaman Daugherty ("Daugherty," and together with Highland, the "Parties"), it is **HEREBY ORDERED THAT:**

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. Highland's deadline to respond to the *Motion for Stay Pending Appeal* [Adv. Pro. Docket No. 33] (the "Stay Motion") is extended to **Monday, October 6, 2025**.

3. The Parties agree that the Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of the Stipulation and this Order.

###END OF ORDER###

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

APPROVED AS TO FORM AND
SUBSTANCE:

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

GRAY REED

By: */s/ Drake M. Rayshell*
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6050
Facsimile: (469) 320-6886
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel for Patrick Daugherty

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

STIPULATION REGARDING HIGHLAND CAPITAL MANAGEMENT, L.P.'S DEADLINE TO FILE RESPONSE TO PATRICK DAUGHERTY'S MOTION FOR STAY PENDING APPEAL

This stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. ("Highland") and defendant Patrick Daugherty ("Daugherty," and together with Highland, the "Parties"), by and through their respective undersigned counsel. Through this Stipulation, the Parties respectfully state and stipulate as follows:

RECITALS

WHEREAS, on May 2, 2025, Highland commenced the above-captioned adversary proceeding (the "Adversary Proceeding") by filing its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Adv. Pro. Docket No. 1] (the "Complaint").

WHEREAS, on June 4, 2025, Daugherty moved to dismiss the Complaint [Adv. Pro. Docket No. 5] (the "Motion to Dismiss") on the ground that it was to be stayed pursuant to the terms of that certain *Settlement Agreement* by and between Highland and Daugherty (the "Settlement Agreement") approved by the Bankruptcy Court in its *Order Approving Settlement Agreement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3298] (the "Settlement Order").

WHEREAS, on July 18, 2025, Highland filed its opposition to the Motion to Dismiss and cross-moved for relief from the Settlement Order [Adv. Pro. Docket Nos. 9 and 10] (the "Cross Motion") seeking to strike the stay provision from paragraph 9 of the Settlement Agreement.

WHEREAS, on August 8, 2025, Daugherty filed his opposition to the Cross Motion [Adv. Pro. Docket No. 15].

WHEREAS, on September 5, 2025, the Bankruptcy Court entered its *Order (A) Denying Patrick Daugherty's Motion to Dismiss and (B) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Adv. Pro. Docket No. 23] (the "9024 Order") granting the Cross Motion and denying the Motion to Dismiss.

WHEREAS, on September 19, 2025, Daugherty commenced his appeal of the 9024 Order (the "Appeal") by filing his *Notice of Appeal* [Adv. Pro. Docket No. 25].

WHEREAS, the Appeal has been docketed as civil action no. 3:25-cv-02584-E in the United States District Court for the Northern District of Texas, Dallas Division.

WHEREAS, on September 26, 2025, Daugherty filed with the Bankruptcy Court his *Motion for Stay Pending Appeal* [Adv. Pro. Docket No. 33] (the "Stay Motion") seeking, among other things, stays of (i) the Adversary Proceeding and (ii) enforcement of the 9024 Order.

WHEREAS, pursuant to Federal Rule of Bankruptcy Procedure 8013(a)(3)(A), Highland's deadline to respond to the Stay Motion is October 3, 2025.

WHEREAS, the Parties have conferred and are executing this Stipulation to clarify that Highland's deadline to respond to the Stay Motion shall be extended to Monday, October 6, 2025.

NOW, THEREFORE, IT IS HEREBY JOINTLY STIPULATED AND AGREED AS FOLLOWS:

1. Highland's deadline to respond to Daugherty's Stay Motion is extended to **Monday, October 6, 2025**.

2. This Stipulation may be executed in counterparts. A facsimile, electronic, or photocopy of this Stipulation and the signatures hereto shall have the same effect and may be accepted with the same authority as if it were an original.

3. The Parties agree that the Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Stipulation and any order related thereto.

[*Remainder of Page Intentionally Blank*]

Dated: October 1, 2025.

GRAY REED

/s/ Drake M. Rayshell
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on October 1, 2025, a true and correct copy of the foregoing Stipulation was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-sgj

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Oct 02, 2025 Form ID: pdf001 Total Noticed: 5

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 04, 2025:

Recip ID		Recipient Name and Address
dft	+	Patrick Hagaman Daugherty, 3621 Cornell Avenue, Suite 830, Dallas, TX 75205-2818

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Oct 02 2025 21:57:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Oct 02 2025 21:57:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Oct 02 2025 21:57:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Oct 02 2025 21:57:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 04, 2025 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 1, 2025 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 3

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

In Re: Highland Capital Management, L.P

§

§ Case No 19−34054−SGJ-11

Patrick Daugherty - Appellant § 25-03055

vs §

3:26-CV-02664-S

Highland Capital Management, L.P., et al - Appellee

§

§

[138] Judgment. Entered on 8/7/2026

APPELLANT RECORD

VOLUME 4

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055-bwo
Defendant.	§	
	§	INDEX

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the July 24, 2026 *Judgment and Memorandum Opinion* [Docket Nos. 138, 139 in Adversary No. 25-03055-bwo]. *See Notice of Appeal* [Docket No. 142 in Adversary No. 25-03055-bwo].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court erred in disallowing Daugherty's Reserved Claim based on the Employment Agreement's termination provisions, when the Court itself found the 2009 Compensation Statement was incorporated into the Employment Agreement and resolved its ambiguity in Daugherty's favor, concluding that Highland Capital Management, L.P. ("Highland") intended to compensate Daugherty for any material deviation in his 2008 tax refund.

2. Whether the Bankruptcy Court erred in applying the "no further liability or obligation" language of Sections 4.5 and 4.6 of the Employment Agreement to extinguish Daugherty's compensation entitlement under the 2009 Compensation Statement, when that language pertains to severance contingent upon execution of a separation agreement and not to earned compensation that accrued during Daugherty's active employment.

3. Whether the Bankruptcy Court erred in holding that James Dondero's oral promises to cover Daugherty's contingent tax liability were unenforceable under Texas's statute of frauds, Tex. Bus. & Com. Code § 26.01, when Highland had a main purpose of its own in making the promise and when the Court failed to consider Daugherty's continued employment and forbearance as adequate consideration.

4. Whether the Bankruptcy Court erred in denying Daugherty's counterclaim for specific performance of the Settlement Agreement's books-and-records provision by construing that provision through the statutory categories of 6 Del. C. § 18-305(a), rather than by the plain meaning of the negotiated Settlement Agreement requiring Highland to "transfer its *interests* in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims," including "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system."

5. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of

the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

6. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, inter alia, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

Vol. 1
000001
000008

1. Notice of Appeal for Adversary No. 25-03055-bwo [Docket No. 142].

2. The Judgment Order or Decree appealed from: July 24, 2026 – Judgment [Docket No. 138].

000010

3. July 24, 2026 – Memorandum of Opinion [Docket No. 139].

000035

4. Docket Sheet for Adversary Case No. 25-03055-bwo kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 25-03055-bwo:

Vol. 2

Filing Date	Docket No.	Description
05/02/2025	1	(16 pgs; 3 docs) Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/05/2025	2	(4 pgs; 2 docs) Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3	(2 pgs) Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre-trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us-

000053
000064
000073

Vol. 2

		courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025	4	(4 pgs) Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025	5	(13 pgs; 2 docs) Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025	6	(5 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025	7	(10 pgs) Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025	8	(12 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025	9	(13 pgs; 2 docs) Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025	10	(13 pgs; 2 docs) Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025	11	(43 pgs; 5 docs) Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

000076
000079
000092
000097
000107
000119
000132
000145

Vol. 2

07/28/2025	12	(4 pgs) Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025	13	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025	14	(6 pgs; 2 docs) Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025	15	(13 pgs) Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025	16	(5 pgs) Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)

000188
000192
000195
000201
000214

Vol. 2

08/18/2025 000219	17	(3 pgs) Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025 000222	18	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025 000225	19	(225 pgs; 12 docs) Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)

Vol. 3

09/04/2025 000450	20	(48 pgs; 2 docs) Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/05/2025 000498	23	(3 pgs) Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025 000501	24	(5 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)

Case 3:25-cv-02584-S Document 12-4 Filed 10/27/25 Page 8 of 283 PageID 928

09/19/2025	25	(9 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
09/23/2025	27	(13 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
09/23/2025	28	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
09/23/2025	30	(6 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02584-E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
09/25/2025	31	(7 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
09/25/2025	32	(4 pgs) BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
09/26/2025	33	(44 pgs; 2 docs) Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
09/29/2025	34	(1 pg) Request for Transcript regarding a hearing held on 9/4/2025. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

vol. 3

09/30/2025	35	(36 pgs) Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025	36	(6 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025	37	(14 pgs) Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025	38	(11 pgs) Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025	39	(45 pgs; 2 docs) Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)

000592
000628
000634
000648
000659

Vol. 3

000704	10/03/2025	40	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
000707	10/03/2025	41	(6 pgs) Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
000713	10/04/2025	42	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
000729	10/04/2025	43	(13 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)

Vol 4

000742	10/06/2025	44	(29 pgs) Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
000771	10/09/2025	45	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
000774	10/09/2025	46	(3 pgs) Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Morris, John)
000777	10/09/2025	47	(3 pgs) Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
000780	10/09/2025	48	(3 pgs) Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Demo, Gregory)
000783	10/13/2025	49	(9 pgs) Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related

		documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50	(1 pg) Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	51	(6 pgs) Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53	(1 pg) Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25-cv-02584-E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54	(1 pg) Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25-cv-02584-E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55	(3 pgs) Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56	(8 pgs) Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57	(7 pgs) DISTRICT COURT Stipulation concerning supplement to record on appeal re: 3:25-cv-02584-E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of

Vol 4

		issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58	ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25-03055, effective immediately. The Bankruptcy Clerk of Court will re-assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025		Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59	(11 pgs) Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60	(14 pgs; 2 docs) Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61	(156 pgs; 7 docs) Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62	(3 pgs) Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).

000819

000830

000844

Vol 5

001000

Vol 5

12/29/2025 001003	63	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
12/30/2025 001006	64	(19 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/30/2025 001025	65	(3 pgs) Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/30/2025 001028	66	(14 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/31/2025 001042	67	(14 pgs) Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
01/02/2026 001056	68	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
01/05/2026 001072	69	(12 pgs) Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
01/05/2026 001084	70	(10 pgs; 2 docs) Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
01/08/2026 001094	71	(10 pgs) Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion*

Case 3:26-cv-02664-S Document 1-24 Filed 10/27/26 Page 14 of 289 PageID 934

Vol 5

		to Compel Production of Audio Recordings, Transcripts, and Related Documents) filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
01/12/2026 001104	72	(4 pgs) Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff

Vol. 5

		Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026	73	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/15/2026	74	(2 pgs) Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)
01/17/2026	76	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
01/23/2026	77	(16 pgs) Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
01/25/2026	78	(18 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
01/26/2026	79	(13 pgs) Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
01/26/2026	80	(13 pgs) Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
01/28/2026	81	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman

001108
001111
001113
001117
001133
001151
001164
001179

Vol 5

		Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026	82	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/09/2026	84	(4 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026	85	(7 pgs) Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026	86	(9 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026	87	(3 pgs) Notice to take deposition of T.J. Liles-Tims filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
02/27/2026	88	(2 pgs) Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026	89	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)

001192
001207
001211
001218
001227
001230
001232

03/10/2026	91	(3 pgs) Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026	93	(5 pgs) Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026	94	(8 pgs) Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026	95	(3 pgs) Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026	96	(10 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)
04/02/2026	97	(8 pgs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)

Vol. 5

001273 04/02/2026	98	(8 pgs) Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
001281 04/08/2026	99	(9 pgs) Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001290 04/10/2026	100	(28 pgs) Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
001318 04/13/2026	101	(28 pgs) Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
001346 04/13/2026	102	(21 pgs) Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
001367 04/14/2026	103	(8 pgs) Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
001375 04/14/2026	104	(8 pgs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
001383 04/15/2026	105	(1782 pgs; 95 docs) Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-01 # 2 Exhibit PD-02 # 3 Exhibit PD-03 # 4 Exhibit PD-04 # 5 Exhibit PD-05 # 6 Exhibit PD-06 # 7 Exhibit PD-07 # 8 List of 20 Largest Creditors PD-08 # 9 Exhibit PD-09 # 10 Exhibit PD-10 # 11 Exhibit PD-11 # 12 Exhibit PD-12 # 13 Exhibit PD-13 # 14 Exhibit PD-14 # 15 Exhibit PD-16 # 16 Exhibit PD-16 # 17 List of 20 Largest Creditors PD-17 # 18 Exhibit PD-18 # 19 Exhibit PD-19 # 20 Exhibit PD-20 # 21 Exhibit PD-21 # 22 Exhibit PD-22 # 23 Exhibit PD-23 # 24 Exhibit PD-24 # 25 Exhibit PD-25 # 26 Exhibit PD-26 # 27 Exhibit PD-27 # 28 Exhibit PD-28 # 29 Exhibit PD-29 # 30 Exhibit PD-30 # 31 Exhibit PD-31 # 32 Exhibit PD-32 # 33 Exhibit PD-33 # 34 Exhibit PD-34 # 35 Exhibit PD-35 # 36 Exhibit PD-36 # 37 Exhibit PD-37 # 38 List of 20 Largest Creditors PD-38 # 39 List of 20 Largest Creditors PD-39 # 40 Exhibit PD-40 # 41 List of 20 Largest Creditors PD-41 # 42 Exhibit PD-42 # 43 Exhibit PD-43 # 44 Exhibit PD-44 # 45 Exhibit PD-45 # 46 Exhibit PD-46 # 47 Exhibit PD-47 # 48 Exhibit PD-48 # 49 Exhibit PD-49 # 50 Exhibit PD-50 # 51 Exhibit PD-51 # 52 Exhibit PD-52 # 53 Exhibit PD-53 # 54 Exhibit PD-54

Vol 5 001383		# 55 Exhibit PD-55 # 56 Exhibit PD-56 # 57 Exhibit PD-57 # 58 Exhibit PD-58 # 59 Exhibit PD-59 # 60 Exhibit PD-60 # 61 Exhibit PD-61 # 62 Exhibit PD-62 # 63 Exhibit PD-63 # 64 Exhibit PD-64 # 65 Exhibit PD-65 # 66 Exhibit PD-66 # 67 Exhibit PD-67 # 68 Exhibit PD-68 # 69 Exhibit PD-69 # 70 Exhibit PD-70 # 71 Exhibit PD-71 # 72 Exhibit PD-72 # 73 Exhibit PD-73 # 74 Exhibit PD-74 # 75 Exhibit PD-75 # 76 Exhibit PD-76 # 77 Exhibit PD-77 # 78 Exhibit PD-78 # 79 Exhibit PD-79 # 80 Exhibit PD-80 # 81 Exhibit PD-81 # 82 Exhibit PD-82 # 83 Exhibit PD-83 # 84 Exhibit PD-84 # 85 Exhibit PD-85 # 86 Exhibit PD-86 # 87 Exhibit PD-87 # 88 Exhibit PD-88 # 89 Exhibit PD-89 # 90 Exhibit PD-90 # 91 Exhibit PD-91 # 92 Exhibit PD-92 # 93 Exhibit PD-93 # 94 Exhibit PD-94) (York, Andrew)
001385	04/15/2026	106 (11 pgs) Joint Motion to file document under seal. *Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (York, Andrew)
Vol. 6 001396 Thru Vol 7	04/15/2026	107 (696 pgs; 66 docs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
Vol 7 002092	04/15/2026	108 (5 pgs) Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
002097	04/15/2026	109 SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital

Vol. 7

		Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	110	SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	111	SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	112	SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	113	SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	114	SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	115	SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	116	SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)

04/15/2026	117	SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118	SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119	SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120	SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121	SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122	SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123	SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124	(30 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)101 Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff

		Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	126	(64 pgs; 5 docs) Support/supplemental document *Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-95 # 2 Exhibit PD-96 # 3 Exhibit PD-97 # 4 Exhibit PD-98) (York, Andrew)
04/16/2026	127	(3 pgs) Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128	(15 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129	(7 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130	(9 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	132	(1 pg) Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133	(1 pg) Request for Transcript regarding a hearing held on 4/17/2026. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

Vol. 8	05/18/2026	135	(327 pgs) Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken under advisement; each side to file proposed Findings of Fact and Conclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
002220			
Vol. 9	06/05/2026	136	(47 pgs) Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
002555			
002602	06/05/2026	137	(19 pgs) Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
002621	07/24/2026	138	(2 pgs) Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
002623	07/24/2026	139	(25 pgs) Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
002648	07/26/2026	140	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002652	07/26/2026	141	(27 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002679	08/07/2026	142	(7 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
002686	08/11/2026	144	(9 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation

		due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146	(4 pgs) DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26-cv-02664-S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147	(4 pgs) BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver of, any and all rights, remedies, challenges and objections.

Respectfully submitted this 2nd day of September, 2026,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of September 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	Adv. Proc. No. 25-03055-sgj
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

TABLE OF CONTENTS

Page

I. PRELIMINARY STATEMENT **1**

II. FACTUAL BACKGROUND **4**

A. The Parties Agreed to Stay Litigation Over Daugherty's Reserved Claim Until the IRS Makes a Final Determination with Respect to the IRS Audit Dispute 4

B. Highland Must Resolve All Disputed Claims and the Highland Claimant Trust Must Commence the Dissolution Process Before August 11, 2026 5

C. Faced with Potentially Conflicting Orders, the Court Properly Exercises Its Discretion and Strikes the Stay Provision; Daugherty Appeals Without Seeking Leave of Court 7

III. ARGUMENT **9**

A. Legal Standard 9

B. Daugherty Fails to Show a Substantial Likelihood of Success on the Merits 10

1. Daugherty Failed to Seek or Obtain Leave of the Court Before Appealing the Interlocutory Order 11

2. The Appeal Would Fail on the Merits 12

C. Daugherty Will Not Suffer Irreparable Harm Absent a Stay Pending Appeal 16

D. Highland and Its Stakeholders Will Be Harmed by a Stay Pending Appeal 19

E. A Stay Pending Appeal Is Contrary to the Public Interest 21

IV. CONCLUSION **22**

TABLE OF AUTHORITIES

Page

CASES

Arnold v. Garlock, Inc.,
278 F.3d 426 (5th Cir. 2001) 9, 10

Balestri v. Hunton & Williams, LLP (In re Hallwood Energy, L.P.),
2013 WL 524418 (N.D. Tex. Feb. 11, 2013) 12

BioTE Med., LLC v. Jacobsen,
406 F. Supp. 3d 575 (E.D. Tex. 2019) 18

Bohm v. Howard (In re Howard),
422 B.R. 593 (Bankr. W.D. Pa. 2010).....21

Brittingham v. Wells Fargo Bank, N.A.,
543 F. App'x 372 (5th Cir. 2013).....12

Cashner v. Freedom Stores,
98 F.3d 572 (10th Cir. 1996) 15, 16

Clyde Bergemann, Inc. v. Babcock & Wilcox Co. (In re Babcock & Wilcox),
No. 00-10992, 2000 WL 533492 (E.D. La. May 3, 2000)..... 20, 21

ePlus, Inc. v. Katz (In re Metiom, Inc.),
318 B.R. 263 (S.D.N.Y. 2004) 21

Gross v. Keen Grp. Sols., LLC,
18 F.4th 836 (5th Cir. 2021).....11

Holland Am. Ins. Co. v. Succession of Roy,
777 F.2d 992 (5th Cir. 1985) 18

In re ACC Bondholder Grp. v. Adelphia Communications Corp. (In re Adelphia Communications Corp.),
361 B.R. 337 (S.D.N.Y. 2007) 18

In re First S. Sav. Assoc.,
820 F.2d 700 (5th Cir. 1987) 9, 10

In re M&C P'ship, LLC,
2021 WL 3145197 (E.D. La. July 26, 2021) 9

In re Permian Producers Drilling, Inc.,
263 B.R. 510 (W.D. Tex. 2000) 10, 15, 20

In re Royce Homes LP,
466 B.R. 81 (S.D. Tex. 2012) 12

In re Wright,
2023 WL 3560551 (Bankr. D.N.J. May 18, 2023) 10

Lindy Invs. III v. Shakertown 1992, Inc.,
360 F. App'x 510 (5th Cir. 2010) 12, 15

Manges v. Seattle-First Nat'l Bank (In re Manges),
29 F.3d 1034 (5th Cir. 1994) 19

Nken v. Holder,
556 U.S. 418 (2009) 9

Plains Farm Supply v. Texas. Equipment Co. (In re Texas Equipment Co.),
283 B.R. 222 (Bankr. N.D. Tex 2002) 19

Plaquemines Par. v. Chevron United States, Inc.,
84 F.4th 362 (5th Cir. 2023) 9

Ruff v. Ruff,
2023 WL 2574021 (E.D. Tex. Mar. 20, 2023) 9, 10

Ruiz v. Estelle,
666 F.2d 854 (5th Cir. 1982) 9

Samaras v. America's Favorite Chicken Co. (In re Al Copeland Enters.),
153 F.3d 268 (5th Cir. 1998) 12, 15

Shepherd v. Int'l Paper Co.,
372 F.3d 326 (5th Cir. 2004) 11

State v. Biden,
10 F.4th 538 (5th Cir. 2021) 17

Trend Intermodal Chassis Leasing LLC v. Zariz Transp. Inc.,
711 F. Supp. 3d 627 (N.D. Tex. 2024) 10

Trend Intermodal Chassis Leasing, L.L.C. v. Zariz Transp. Inc.,
2024 WL 3423217 (5th Cir. July 16, 2024) 10

X Corp. v. Media Matters for Am.,
120 F.4th 190 (5th Cir. 2024) 11

Yesh Music v. Lakewood Church,
727 F.3d 356 (2013) 16

STATUTES

11 U.S.C. § 502 ..... 13, 18, 21

28 U.S.C. § 1292 12

28 U.S.C. § 158 12

HIGHLAND CAPITAL MANAGEMENT, L.P.'S OBJECTION TO PATRICK DAUGHERTY'S MOTION FOR STAY PENDING APPEAL

Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor," as applicable) in the above-captioned chapter 11 case (the "Bankruptcy Case") and the plaintiff in the above-captioned adversary proceeding, files this objection to *Patrick Daugherty's Motion for Stay Pending Appeal* [Adv. Docket No. 33] (the "Motion").

I. PRELIMINARY STATEMENT[2]

1. Daugherty fails to prove the extraordinary remedy of a stay pending his appeal is warranted. The Motion should be denied because Daugherty cannot meet his burden of proving that: (a) he has a substantial likelihood of succeeding on the merits of his appeal; (b) he will be irreparably harmed in the absence of a stay; (c) a stay would not harm other parties; or (d) a stay would serve the public interest. Daugherty cannot meet the first prong—a likelihood of success—for two reasons.

2. First, the Order is interlocutory and Daugherty failed to seek leave of court before he could appeal. The Appeal will likely be dismissed as procedurally improper.

3. Second, the Appeal would fail on the merits. Daugherty cannot show that the Court abused its broad discretion in granting the Cross Motion. The Court

[2] Capitalized terms not defined in this Preliminary Statement have the meanings ascribed to them below or in the Plan.

was faced with an unforeseen conflict between two different court-approved agreements: (a) the Sunset Provisions of the Claimant Trust Agreement (the "CTA") (which require Highland to resolve all disputed claims, including Daugherty's Reserved Claim, before August 11, 2026, so the Claimant Trust can be dissolved by that deadline), and (b) the Stay Provision of the Settlement Agreement (which stayed adjudication of Daugherty's Reserved Claim until the IRS made its final determination with respect to the "IRS Audit Dispute," an event the Debtor maintains has occurred but Daugherty disputes). As the Court found, this type of extraordinary circumstance warranted Rule 60(b) relief. The Court's decision to modify the Settlement Agreement (which affects only Daugherty), rather than the earlier-approved CTA (which affects all stakeholders and would have caused the Highland case to remain open indefinitely), was a proper exercise of its discretion.[3] Daugherty fails to show any—let alone a substantial—likelihood of success on the merits of his Appeal.

4. Nor can Daugherty establish that he will be irreparably harmed in the absence of a stay. Daugherty could have resolved his dispute in 2018 when the IRS, after concluding its audit of Highland, made a settlement offer, but he did not engage

[3] Highland continues to reserve the right to establish that the IRS "made a final determination with respect to the IRS Audit Dispute" in 2018 if that ever becomes necessary. *See, e.g.*, Morris Exhibits 2-4 (2017 and 2018 HCMLP and IRS notices to Daugherty with audit determination adjustment amount and proposed IRS settlement with Daugherty).

at that time.[4] Even today, despite the supposed "risks" he faces, Daugherty refuses to try to resolve his dispute with the IRS. Any "harm" Daugherty faces is self-inflicted, speculative, and not the type of irreparable harm warranting a stay. Highland's stakeholders will be irreparably harmed if a stay is granted. A stay pending appeal would effectively vitiate the Sunset Provisions (without notice) by indefinitely delaying the resolution of Daugherty's Reserved Claim and, consequently, the commencement of the Claimant Trust's dissolution thereby imposing incalculable costs on the estate and Claimant Trust's stakeholders.

5. Daugherty's argument that a stay would serve the public interest is spurious. If upholding contracts was synonymous with the public interest, Rule 60 could never be utilized to effectuate justice in contract cases even though that is one of its express purposes. Daugherty offers no explanation why the "public interest" favors upholding *his* contract when doing so would violate the CTA and related orders.

6. The Motion should be denied.

[4] Daugherty offers no explanation for his failure to respond to the IRS Form 886-Z and 870-PT 2008 audit adjustment (the "Adjustment"). In any event, the results of the appeal of the Adjustment are largely irrelevant to the Debtor's objection to the Reserved Claim. As detailed in the complaint, Daugherty is not entitled to any recovery from the estate irrespective of the outcome of the Appeal.

II. FACTUAL BACKGROUND

A. The Parties Agreed to Stay Litigation Over Daugherty's Reserved Claim Until the IRS Makes a Final Determination with Respect to the IRS Audit Dispute

7. On November 22, 2021, Highland and Patrick Daugherty ("Daugherty," and together with Highland, the "Parties") entered into that certain *Settlement Agreement* (the "Settlement Agreement") resolving all of Daugherty's claims against the Debtor's estate except for his Reserved Claim (as that term is defined in the Settlement Agreement). Morris Exhibit 1.[5] On March 8, 2022, the Court entered an order approving the Settlement Agreement (the "Settlement Order") [Docket No. 3299].

8. The Settlement Agreement provides that: (a) Highland expressly "reserve[d] the right to assert any and all defenses" to the Reserved Claim, and (b) the parties agreed that "[a]ny litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed *until the IRS makes a final determination* with respect to the IRS Audit Dispute." Morris Exhibit 1 ¶ 9 (the "Stay Provision") (emphasis added).

[5] "Morris Exhibits" refer to the exhibits annexed to the *Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed at Docket No. 11.

9. The Stay Provision did not include a specific date for the termination of the stay.

B. Highland Must Resolve All Disputed Claims and the Highland Claimant Trust Must Commence the Dissolution Process Before August 11, 2026

10. Nine months before the Parties executed the Settlement Agreement, this Court confirmed Highland's plan of reorganization. On February 22, 2021, the Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Main Docket No. 1943] (the "Confirmation Order") with respect to the Plan.[6]

11. The Plan included a form of *Claimant Trust Agreement* (the "CTA"), the contract between Highland and James P. Seery, Jr., in his capacity as the Claimant Trustee, "entered for the benefit of Claimant Trust Beneficiaries entitled to the Claimant Trust Assets" (as those terms are defined in the CTA). [Main Docket No. 1811, Exhibit R (preamble)].[7] The Plan created the CTA when the Plan went effective on August 11, 2021. [Main Docket No. 2700].

12. Section 9.1 of the CTA provides that the Claimant Trust will be dissolved when: "***all objections to Disputed Claims and Equity Interests are fully***

[6] The "Plan" refers to the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on the main docket at Docket No. 1808. The Confirmation Order was subsequently modified for reasons irrelevant to the Motion. *See* Main Docket No. 4378.

[7] Prior to its execution, the CTA was modified in non-substantive ways irrelevant to the Motion. *See* Main Docket No. 1875, Exhibit EE.

resolved . . . but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets."[8]

13. In accordance with subsequent Court orders incorporating the CTA,[9] Highland is required under Section 9.1 of the CTA to resolve "all objections to Disputed Claims and Equity Interests" (including Daugherty's Reserved Claim) so that the Claimant Trust can dissolve on or before August 11, 2026 (collectively, the "Sunset Provisions").[10]

[8] The CTA follows the Plan which contains the same requirement that the Claimant Trust dissolve no later than August 11, 2026. Plan Art. IV.B.14.

[9] *See, e.g.*, Confirmation Order ¶¶ A, D, 27.

[10] The initial three-year term of the CTA was extended to August 11, 2025, [Main Docket No. 4144], and again to August 11, 2026. [Main Docket No. 4298]. Daugherty was served with Highland's motions seeking the extensions of the CTA but lodged no objection.

C. Faced with Potentially Conflicting Orders, the Court Properly Exercises Its Discretion and Strikes the Stay Provision; Daugherty Appeals Without Seeking Leave of Court

14. On May 2, 2025, days before Highland moved to extend the life of the CTA one last time (to August 11, 2026), Highland commenced this adversary proceeding by filing its *Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* (the "Complaint"). [Adv. Docket No. 1]. In its Complaint, Highland seeks to disallow, estimate for allowance purposes, or subordinate Daugherty's Reserved Claim.[11]

15. On June 4, 2025, Daugherty moved to dismiss the Complaint on the ground that litigation of his Reserved Claim was purportedly barred by the Stay Provision [Adv. Docket No. 5] (the "Dismissal Motion").

16. On July 18, 2025, Highland filed its objection to the Dismissal Motion and its cross-motion [Adv. Docket Nos. 9 and 10] (the "Cross Motion"). Therein, Highland (a) objected to the Dismissal Motion on the ground that the IRS had made a "final determination" of the IRS audit dispute such that the Stay Provision no

[11] Highland maintains that it has no obligation for the Reserved Claim irrespective of the outcome of the taxpayers' appeal of the Adjustment.

longer applied, and (b) requested entry of an order modifying the Settlement Order by striking the Stay Provision from the Settlement Agreement.

17. The Court held oral argument on September 4, 2025. [*See* Adv. Docket No. 21].[12] The Court denied Daugherty's Dismissal Motion and granted Highland's Cross Motion from the bench, finding that "extraordinary circumstances" existed justifying Rule 60(b) relief. The Court found that the Sunset Provisions of the CTA conflicted with the Stay Provision of the Settlement Agreement in ways that could not have been reasonably foreseen when those agreements were executed and approved by the Court years earlier and that justice required favoring the broad interest in timely dissolving the Claimant Trust over Daugherty's personal interest in waiting indefinitely to allow the appeal of the IRS audit determination to be resolved by the courts. *See* September 4, 2025 Transcript ("Tr.") at 30:18-34:9.

18. On September 5, the Court entered an order granting Highland's Cross Motion [Adv. Docket No. 23] (the "Order"), and on September 19, 2025, Daugherty appealed [Adv. Docket No. 25].

[12] By then, the Court had entered an Order extending the life of the Claimant Trust one last time, to August 11, 2026, without objection. [Main Docket No. 4298].

III. ARGUMENT

A. Legal Standard

19. A stay pending appeal is "extraordinary relief" for which the movant bears a "heavy burden." *Plaquemines Par. v. Chevron United States, Inc.*, 84 F.4th 362, 373 (5th Cir. 2023). To meet this burden, a movant must establish: (1) substantial likelihood of success on the merits of its appeal; (2) irreparable injury if the stay is not granted; (3) the stay will not substantially harm other parties; and (4) the stay would serve the public interest. *See In re First S. Sav. Assoc.*, 820 F.2d 700, 704 (5th Cir. 1987).

20. "The Fifth Circuit has made clear that all four elements must be met, and that the party who seeks a stay bears the burden of establishing these prerequisites." *In re M&C P'ship, LLC*, 2021 WL 3145197, at *4 (E.D. La. July 26, 2021) (citing *Arnold v. Garlock, Inc.*, 278 F.3d 426, 438 (5th Cir. 2001) and *Ruiz v. Estelle*, 666 F.2d 854, 856 (5th Cir. 1982)). "'A stay is not a matter of right, even if irreparable injury might otherwise result. It is instead an exercise of judicial discretion, and [t]he propriety of its issue is dependent upon the circumstances of the particular case.'" *Plaquemines*, 84 F.4th at 373 (quoting *Nken v. Holder*, 556 U.S. 418, 433 (2009)). "In the context of a stay pending appeal, the decision to enter the stay is committed to the discretion of the bankruptcy court." *Ruff v. Ruff*, 2023 WL

2574021, at *4 (E.D. Tex. Mar. 20, 2023) (citing *First S. Sav. Assoc.*, 820 F.2d at 709).

21. Daugherty fails to establish any of the four elements required to warrant the extraordinary remedy of a stay pending his appeal of the Order.

B. Daugherty Fails to Show a Substantial Likelihood of Success on the Merits

22. Daugherty fails to show a substantial likelihood of success on the merits of his Appeal. "To make the requisite showing under this element, the movant must demonstrate a strong case that it is 'likely to succeed on the merits' ..., not [just] a 'mere possibility of relief.'" *Trend Intermodal Chassis Leasing LLC v. Zariz Transp. Inc.*, 711 F. Supp. 3d 627, 640 (N.D. Tex. 2024), *aff'd sub nom. Trend Intermodal Chassis Leasing, L.L.C. v. Zariz Transp. Inc.*, 2024 WL 3423217 (5th Cir. July 16, 2024) (internal quotations omitted).[13] "While the absence of any one factor is not fatal to a successful motion for stay, greater weight is given to the first factor—the movant's likelihood of success." *See In re Permian Producers Drilling, Inc.*, 263 B.R. 510, 515 (W.D. Tex. 2000).

[13] Daugherty argues that he need "only show that he can present a substantial case on the merits even if his argument is a request that the district court adopt a minority viewpoint." Motion ¶ 13 (citing *In re Wright*, 2023 WL 3560551 (Bankr. D.N.J. May 18, 2023)). That is not the law. Daugherty's assertion that he need not prove a "substantial likelihood of success on the merits" also fails because his Appeal does not involve "a serious legal question." *See* Motion ¶ 12 (citing *Arnold*, 278 F.3d at 438-39). Daugherty's Appeal does not involve *any* "legal question." *See Appellant's Designation of Items to Be Included in the Record on Appeal and Statement of the Issues Presented* [Adv. Docket No. 41].

23. Daugherty has not met this burden. As set forth below, (a) the Appeal will likely be dismissed because the Order is interlocutory such that leave of court was required for appellate review; and (b) the Appeal would fail on the merits in any event.

1. Daugherty Failed to Seek or Obtain Leave of the Court Before Appealing the Interlocutory Order

24. Daughterty cannot succeed on his Appeal because the Order is interlocutory—it is not "final" because it does not end the litigation of Daugherty's Reserved Claim on the merits—and is not appealable as of right under 28 U.S.C. § 158(a)(1).[14] *See X Corp. v. Media Matters for Am.*, 120 F.4th 190 (5th Cir. 2024) (noting that "typically, a decision is 'final' only if it ends the litigation on the merits and leaves nothing for the court to do but execute the judgment"); *Gross v. Keen Grp. Sols., LLC*, 18 F.4th 836, 839 (5th Cir. 2021) (grants of Rule 60(b) motions are "considered interlocutory and non-appealable"); *Shepherd v. Int'l Paper Co.*, 372 F.3d 326, 328 (5th Cir. 2004) (same). Daugherty did not seek leave to appeal the interlocutory Order as required under 28 U.S.C. § 158(a)(3) and Bankruptcy Rule 8004. The Appeal is procedurally infirm and will likely be

[14] Highland intends to move to dismiss the Appeal on this basis.

dismissed on this basis.[15] There is little likelihood, let alone a "substantial" likelihood, of success on the Appeal.

2. The Appeal Would Fail on the Merits

25. Even if the Appeal is heard on the merits, it would still fail. Daugherty cannot prove that the Bankruptcy Court abused its broad discretion by granting the Cross Motion.

26. Federal Rule of Civil Procedure 60(b) authorizes courts to relieve a party from a final judgment or order for any reason justifying relief from operation of the judgment. "[T]he decision to grant or deny relief under Rule 60(b) lies within the sound discretion of the district court and will be reversed only for abuse of that discretion." *Brittingham v. Wells Fargo Bank, N.A.*, 543 F. App'x 372, 373–74 (5th Cir. 2013) (internal quotations omitted); *see also Samaras v. America's Favorite Chicken Co. (In re Al Copeland Enters.)*, 153 F.3d 268, 271 (5th Cir. 1998) (same). "The discretion under 60(b)(6) is said to be *especially broad* because relief may be granted under it when appropriate to accomplish justice." *Lindy Invs. III v. Shakertown 1992, Inc.*, 360 F. App'x 510, 513 (5th Cir. 2010) (internal quotations

[15] Even if the district court treats Daugherty's notice of appeal as a motion for leave to appeal under Bankruptcy Rule 8004(d), leave would be denied. No "exceptional" circumstances justify appellate review of an interlocutory order under § 1292(b). *See Balestri v. Hunton & Williams, LLP (In re Hallwood Energy, L.P.)*, 2013 WL 524418, at *6 (N.D. Tex. Feb. 11, 2013); *In re Royce Homes LP*, 466 B.R. 81, 93 (S.D. Tex. 2012) (noting that district courts within the Fifth Circuit have looked to the factors listed under 28 U.S.C. § 1292(b) in determining whether to grant a motion for leave to appeal an interlocutory order under 28 U.S.C. § 158(a)(3)).

omitted). A court abuses its discretion only when its ruling is based on an erroneous view of the law or a clearly erroneous assessment of the evidence. *Nunez v. Allstate Ins. Co.*, 604 F.3d 840, 844 (5th Cir. 2010).

27. Daugherty will be unable to demonstrate that the Bankruptcy Court abused its discretion in granting relief under Rule 60. On the Cross Motion, the Court confronted potentially conflicting provisions in two agreements that were approved years earlier in separate court orders: the Sunset Provision in the Confirmation Order and the Stay Provision in the Settlement Agreement. Resolution of this conflict is precisely the type of "extraordinary circumstance" that justified relief under Rule 60. Tr. at 31:23-32:23.

28. As the Court explained, while the parties disputed the meaning of the Stay Provision and whether the IRS had made a "final determination" with respect to the IRS tax audit, "we can't wait forever. That's not what the Bankruptcy Code, the bankruptcy process, is designed to do." Tr. at 33:19-20. This is the type of situation that is contemplated by section 502(c), "where at some point you've got to estimate the claim if you can't get to a final determination otherwise." The Court properly exercised its discretion when it stated, "I refuse to keep this estate open for who knows how many more years," noting that during her five years presiding over Highland's Bankruptcy Case, "I've made it clear" we need to "wind this up." *Id.* at 33:23-34:1. Four years earlier no one "reasonably anticipated that we would be

sitting here in the latter part of 2025 with this bankruptcy estate still open." *Id.* at 31:10-20. Based on its assessment of the evidence and the unique circumstances of this case, the Court's grant of the Cross Motion was a proper exercise of its broad discretion.

29. In his Motion, Daugherty focuses *exclusively* on the Stay Provision in the Settlement Agreement while *ignoring* the conflicting Sunset Provisions in the CTA, Confirmation Order, and related extension orders. The Bankruptcy Court had to resolve the potential conflict, and it did so by enforcing the Sunset Provision rather than the Stay Provision. Daugherty will not succeed in proving that the Court erroneously left the Sunset Provision in place—approved nine months earlier for the benefit of the Claimant Trust Beneficiaries—rather than the later-approved Stay Provision, supposedly adopted solely for Daugherty's benefit. Daugherty fails to explain why the dissolution of the Claimant Trust must be delayed indefinitely for his personal benefit.

30. Daugherty's contention that "Highland could have negotiated provisions or caveats that would have addressed the current situation" is irrelevant. Motion ¶ 16.[16] Highland brought the Cross Motion because, at the time the

[16] Highland could turn the tables on this point: since the Sunset Provisions (approved nine months before Daugherty signed the Settlement Agreement) require that all disputed claims be resolved so that the Claimant Trust could commence dissolution no later than August 11, 2026, Daugherty should have protected himself against the possibility that the IRS would not complete its audit by that time. Yet he failed to do so; if Daugherty expected an indefinite stay, he should have addressed the conflict presented by the pre-existing Sunset Provisions. His failure to so do proves one thing:

Settlement Agreement was entered into, no one reasonably foresaw that Daugherty's Reserved Claim would remain unresolved four years later, with the deadline for dissolution of the Claimant Trust looming. The Court—intimately familiar with all aspects of the long-running Highland bankruptcy—resolved the conflict and granted the Cross Motion in a proper exercise of its discretion. *See Permian*, 263 B.R. at 519-20 (finding movant failed to show likelihood of success on the merits of appeal in proving that bankruptcy court abused discretion in ordering substantive consolidation of bankruptcy estates where there was "sufficient evidence" to support court's factual findings); *Al Copeland Enters.*, 153 F.3d at 272 (affirming bankruptcy court's grant of Rule 60(b)(6) motion as proper exercise of its discretion where denial of the motion would have "inequitable" results); *Lindy*, 360 F. App'x at 513 (court's view of the evidence was not "clearly erroneous" where it was familiar with all aspects of the case).

31. The cases Daugherty relies on in support of his assertion that "motions to reform or nullify settlements are disfavored," (Motion ¶ 14), miss the mark. In *Lease Oil Antitrust Litigation (No. II)*, MDL No. 1206, 2002 WL 35645775 (S.D. Tex. Dec. 4, 2002), a Rule 60 motion was denied because the movant sought to re-litigate issues. *Cashner v. Freedom Stores*, 98 F.3d 572 (10th Cir. 1996), involved

---

the Parties did not foresee the conflict between the operative provisions of the CTA and the Settlement Agreement.

a Rule 60(b) motion brought based on party's "mistake" as to the terms of the agreement. Here, unlike in *Cashner* and *Lease Oil*, Highland was not judicially estopped from seeking the relief sought in the Cross Motion, and such motion was not premised on a party's "mistake."

32. In *Yesh Music v. Lakewood Church*, 727 F.3d 356 (2013), the Fifth Circuit affirmed the lower court's grant of a Rule 60(b) motion to reinstate a plaintiff-appellee's voluntary dismissal of a lawsuit in order to prevent manifest injustice that would arise otherwise. Here, as in *Yesh*, the Bankruptcy Court properly exercised its discretion in modifying the Settlement Agreement so the parties could litigate the Reserved Claim before the deadline for commencing the dissolution of the Claimant Trust. Just as in *Yesh*, the circumstances here justified the modification of Settlement Order under Rule 60 in order to prevent injustice. Daugherty fails to demonstrate a likelihood of substantial success on the merits of the Appeal and the Motion should be denied.

C. <u>Daugherty Will Not Suffer Irreparable Harm Absent a Stay Pending Appeal</u>

33. Daugherty also fails to demonstrate that he will suffer irreparable harm absent a stay pending appeal. Daugherty maintains any harm to him in the absence of a stay is "irreparable" because if the IRS determines Highland has additional tax liability, "Highland will have fully consummated" its Plan and

Daugherty will have no recourse. Motion ¶ 20. This is insufficient to demonstrate irreparable harm warranting a stay.

34. Any harm to Daugherty resulting from the commencement of this litigation would be self-inflicted.[17] In 2018, well before there was a Highland bankruptcy, the IRS made a written offer to resolve Daugherty's dispute of the Adjustment. Morris Dec. Exhibits 2-4. For reasons known only to him, Daugherty chose to follow Highland's recommendation and did not accept the offer. Even today, Daugherty is unwilling to try and resolve the IRS determination of his 2008 tax return Adjustment. Tr. at 15:19-17:7; 23:13-27:20. Daugherty's refusal to try to eliminate the risk is precisely the type of self-inflicted damage that does not constitute "irreparable" injury. *See State v. Biden*, 10 F.4th 538, 558 (5th Cir. 2021) (finding movant's "irreparable injuries" are "self-inflicted and therefore do not count," noting "a party may not satisfy the irreparable harm requirement if the harm complained of is self-inflicted") (internal quotations omitted).

35. Daugherty's purported harm is also speculative. As the Bankruptcy Court found, any resolution resulting from Daugherty's challenge to the Adjustment could take years. Daugherty's concern about the IRS's "plans to increase, decrease, or leave untouched Highland's 2008 tax liability," (Motion ¶ 19), is the type of speculative, monetary injury that is insufficient to constitute "irreparable harm."

[17] Again, Daugherty will likely never be harmed because his Claim will ultimately be disallowed.

See, e.g., *BioTE Med., LLC v. Jacobsen*, 406 F. Supp. 3d 575, 584 (E.D. Tex. 2019) (noting, in the context of a motion for injunctive relief, "the movant must come forward with evidence that such an injury is irreparable by showing that the loss cannot be measured in money damages"); *Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 997 (5th Cir. 1985) (vacating injunction where movant failed to show irreparable harm, noting "[s]peculative injury is not sufficient; there must be more than an unfounded fear on the part of the applicant").

36. Daugherty's argument, if accepted, would render Bankruptcy Code section 502(c) ("Section 502") a nullity. Section 502 provides the statutory authority for estimating contingent and unliquidated claims for allowance purposes. If litigating a claim under Section 502 constitutes "irreparable harm," then that provision could never be enforced and all bankruptcy estates would be forced to remain open until all contingent and unliquidated claims were finally resolved. That is not the law.

37. Daugherty's case cites in support of his contention that he will suffer irreparable harm absent a stay are inapplicable. *In re ACC Bondholder Grp. v. Adelphia Communications Corp. (In re Adelphia Communications Corp.)*, 361 B.R. 337 (S.D.N.Y. 2007), involved a stay pending appeal of a chapter 11 plan before the plan was substantially consummated. Here, Daugherty is not appealing Highland's

Plan, and there is no dispute that Highland's Plan has been consummated.[18] *Plains Farm Supply v. Texas. Equipment Co. (In re Texas Equipment Co.)*, 283 B.R. 222 (Bankr. N.D. Tex 2002), is equally distinguishable. There, the issue was whether an appeal of a bankruptcy court's order authorizing sale was moot pursuant to section 363(m) of the Bankruptcy Code once the sale has occurred. Here, Daugherty is not appealing a sale order issued under section 363. Daugherty fails to show there is any risk of irreparable harm to him in the absence of a stay.

D. Highland and Its Stakeholders Will Be Harmed by a Stay Pending Appeal

38. Highland and its stakeholders will be substantially harmed if a stay is granted. Highland is required, pursuant to the terms of the CTA, the Plan, Confirmation Order, and the orders extending the duration of the Trust, to dissolve the Claimant Trust by August 11, 2026. The Claimant Trust cannot be dissolved until all disputed claims—including Daugherty's Reserved Claim—are resolved.

39. Daugherty maintains that Highland will not be harmed "because the stay is exactly what Daugherty and Highland agreed to in the Settlement Agreement." (Motion ¶ 22). Daugherty again ignores the purpose of the Court's Order. The issue is not whether the Parties agreed to the Stay Provision four years

[18] *Manges v. Seattle-First Nat'l Bank (In re Manges)*, 29 F.3d 1034 (5th Cir. 1994) is inapplicable, as it also deals with whether a plan will be substantially consummated pending appeal. In any event, Daugherty's Reserved Claim is fully reserved.

ago. It is whether that provision should now be excised in the face of unforeseen and extraordinary circumstances—namely, a potentially conflicting order requiring Highland to commence dissolution of the Claimant Trust by August 2026. Highland, its estate, and the Claimant Trust Beneficiaries have already waited for years to end the Bankruptcy Case. It cannot go on indefinitely while Daugherty litigates his audit dispute with the IRS. As the Bankruptcy Court explained, "that's not what the Bankruptcy Code, the bankruptcy process, is designed to do." (Tr. at 33:19-20). A stay of this litigation pending Daugherty's Appeal will only further delay the Claimant Trust dissolution process, in violation of numerous orders, including the Confirmation Order, and to the detriment of the Claimant Trust Beneficiaries. Any such result would run afoul of the fundamental purpose of the bankruptcy process. *See Permian*, 263 B.R. at 522-53 (finding creditors would suffer by a stay of bankruptcy proceedings, noting "a fundamental purpose of the bankruptcy system, is to convert the assets of the bankrupt into cash for distribution among creditors," and "delay in payment to creditors runs counter to this fundamental purpose and, therefore, harms creditors"); *Clyde Bergemann, Inc. v. Babcock & Wilcox Co. (In re Babcock & Wilcox)*, No. 00-10992, 2000 WL 533492, at *18 (E.D. La. May 3, 2000) (denying stay pending appeal, noting that "delay to creditors receiving payments is significant harm warranting denial of stay"). This factor weighs heavily against a stay.

E. A Stay Pending Appeal Is Contrary to the Public Interest

40. Finally, and for all these same reasons, the public interest would not be served by the granting of a stay. "The public interest, in the context of a bankruptcy proceeding, is in promoting a successful reorganization." *Babcock*, 2000 WL 533492, at *19 (internal quotations omitted). The Appeal lacks merit. It would be a waste of party, estate, and judicial resources to stay resolution of Daugherty's Reserved Claim pending resolution of an appeal that will fail. A stay pending the Appeal would unnecessarily delay the resolution of the Bankruptcy Case. *See Bohm v. Howard (In re Howard)*, 422 B.R. 593, 605 (Bankr. W.D. Pa. 2010), *aff'd,* 2:10CV962, 2011 WL 578777 (W.D. Pa. Feb. 9, 2011) ("imposing a stay pending appeal and permitting the Defendant to continue to dissipate assets of the estate does nothing but delay this bankruptcy case and foster further litigation"); *ePlus, Inc. v. Katz (In re Metiom, Inc.)*, 318 B.R. 263, 272 (S.D.N.Y. 2004) ("This Court finds that the public interest in the expeditious administration of bankruptcy cases as well as in the preservation of the bankrupt's assets for purposes of paying creditors, rather than litigation of claims lacking a substantial possibility of success, outweighs the public interest in resolving the issues presented here on appeal.").

41. Further delay of this Adversary Proceeding would be detrimental to Highland and the Claimant Trust Beneficiaries, as well as a waste of judicial resources. A stay of this litigation would also run afoul of Section 502, which allows

an estimation of a claim where, as here, liquidating through the usual adjudicatory process would "unduly delay" the administration of the case. Daugherty fails to demonstrate the extraordinary remedy of a stay is warranted.

IV. CONCLUSION

Accordingly, Highland respectfully requests that the Court deny the Motion.

Dated: October 6, 2025

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC
/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF COMPLIANCE

1. This document complies with the word limit of Fed. R. Bankr. P. 8013(f)(3)(A) because, excluding the portions excluded by Fed. R. Bankr. P. 8015(g), this document contains 5,173 words.

2. This document complies with the typeface requirements of Fed. R. Bankr. P. 8015(a)(5) and the type-style requirements of Fed. R. Bankr. P. 8015(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word, typeface Times New Roman, 14-point type (12-point type of footnotes).

/s/ Zachery Z. Annable
Zachery Z. Annable

CERTIFICATE OF SERVICE

I hereby certify that, on October 6, 2025, a true and correct copy of the foregoing document was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this case.

/s/ Zachery Z. Annable
Zachery Z. Annable

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

NOTICE OF APPEARANCE AND REQUEST FOR
SERVICE OF NOTICES AND OTHER PAPERS

PLEASE TAKE NOTICE that Jeffrey N. Pomerantz of Pachulski Stang Ziehl & Jones LLP appears as counsel on behalf of plaintiff Highland Capital Management, L.P. Any document or other information required to be served on counsel pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, this Court's local rules, or applicable orders of this Court should be sent to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Attn: Jeffrey N. Pomerantz
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com

[*Remainder of Page Intentionally Blank*]

DATED: October 9, 2025

PACHULSKI STANG ZIEHL & JONES LLP

By: */s/ Jeffrey N. Pomerantz*
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Boulevard, 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910
Fax: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on October 9, 2025, a true and correct copy of the foregoing *Notice of Appearance* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this case.

/s/ Jeffrey N. Pomerantz
Jeffrey N. Pomerantz

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

NOTICE OF APPEARANCE AND REQUEST FOR SERVICE OF NOTICES AND OTHER PAPERS

PLEASE TAKE NOTICE that John A. Morris of Pachulski Stang Ziehl & Jones LLP appears as counsel on behalf of plaintiff Highland Capital Management, L.P. Any document or other information required to be served on counsel pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, this Court's local rules, or applicable orders of this Court should be sent to:

Pachulski Stang Ziehl & Jones LLP
1700 Broadway, 36th Floor
New York, NY 10019
Attn: John A. Morris
Telephone: (212) 561-7700
Facsimile: (212) 561-7777
Email: jmorris@pszjlaw.com

[*Remainder of Page Intentionally Blank*]

DATED: October 9, 2025

PACHULSKI STANG ZIEHL & JONES LLP

By: */s/ John A. Morris*
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Boulevard, 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910
Fax: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on October 9, 2025, a true and correct copy of the foregoing *Notice of Appearance* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this case.

/s/ John A. Morris
John A. Morris

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

NOTICE OF APPEARANCE AND REQUEST FOR
SERVICE OF NOTICES AND OTHER PAPERS

PLEASE TAKE NOTICE that Hayley R. Winograd of Pachulski Stang Ziehl & Jones LLP appears as counsel on behalf of plaintiff Highland Capital Management, L.P. Any document or other information required to be served on counsel pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, this Court's local rules, or applicable orders of this Court should be sent to:

Pachulski Stang Ziehl & Jones LLP
1700 Broadway, 36th Floor
New York, NY 10019
Attn: Hayley R. Winograd
Telephone: (212) 561-7700
Facsimile: (212) 561-7777
Email: hwinograd@pszjlaw.com

[*Remainder of Page Intentionally Blank*]

DATED: October 9, 2025

PACHULSKI STANG ZIEHL & JONES LLP

By: */s/ Hayley R. inograd*
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Boulevard, 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910
Fax: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on October 9, 2025, a true and correct copy of the foregoing *Notice of Appearance* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this case.

/s/ Hayley R. inograd
Hayley R. Winograd

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adv. Proc. No. 25-03055-sgj

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

NOTICE OF APPEARANCE AND REQUEST FOR
SERVICE OF NOTICES AND OTHER PAPERS

PLEASE TAKE NOTICE that Gregory V. Demo of Pachulski Stang Ziehl & Jones LLP appears as counsel on behalf of plaintiff Highland Capital Management, L.P. Any document or other information required to be served on counsel pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, this Court's local rules, or applicable orders of this Court should be sent to:

Pachulski Stang Ziehl & Jones LLP
1700 Broadway, 36th Floor
New York, NY 10019
Attn: Gregory V. Demo
Telephone: (212) 561-7700
Facsimile: (212) 561-7777
Email: gdemo@pszjlaw.com

[*Remainder of Page Intentionally Blank*]

DATED: October 9, 2025

PACHULSKI STANG ZIEHL & JONES LLP

By: */s/ regory . emo*
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Boulevard, 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910
Fax: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on October 9, 2025, a true and correct copy of the foregoing *Notice of Appearance* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this case.

/s/ regory . emo
Gregory V. Demo

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S REPLY IN SUPPORT OF MOTION FOR STAY PENDING APPEAL

Defendant Patrick Daugherty files this Reply in Support of Motion for Stay Pending Appeal pursuant to Bankruptcy Rule 8007(a)(1)(A) and would show the Court as follows:

PRELIMINARY STATEMENT

1. Highland's Objection [Doc. No. 44] lacks any meritorious argument. An order granting a Rule 60(b) motion is generally appealable. And the Motion sets out why Daugherty's appeal will succeed on its merits, why he would be irreparably harmed if the stay is not granted, why Highland would not be harmed, and why a stay would serve the public interest. The Objection raises nothing more than strawman arguments that miss the mark. The Court should grant the Motion and issue the stay.

ARGUMENT AND AUTHORITIES

I. Daugherty Did Not Need to Seek Leave to Appeal.

2. Highland argues Daugherty is appealing an interlocutory order, so he needed to seek leave to appeal. Objection at ¶ 24. This disregards the fact that the Order approving Daugherty's Settlement Agreement with Highland is final. Although an order approving a settlement agreement is not a "final judgment," the Fifth Circuit has held that it is a final order that is appealable as of right to the district court. *See Adam v. Itech Oil Co.* (*In re Gibraltar Res., Inc.*), 210 F.3d 573, 576 (5th Cir. 2000) (collecting cases). The Court's Order granting Highland's Rule 60(b)(6) Cross Motion to modify the Settlement Agreement is therefore immediately appealable. *Browder v. Dir., Dep't of Corr. of Ill.*, 434 U.S. 257, 263 n.7 (1978); *see also Halick v. La. Casino Cruises, Inc.*, 151 F.3d 465, 470 (5th Cir. 1998) (same).

II. Daugherty will likely prevail on appeal because the Settlement Agreement is a binding contract that this Court should not have modified under Rule 60(b)(6).

3. Highland completely ignores the binding nature of the Stay Provision, as well as the wealth of case law that motions to reform or nullify settlements are disfavored. *In re Lease Oil Antitrust Litig.*, MDL No. 1206, 2002 WL 35645775, at *13 (S.D. Tex. Dec. 4, 2002) (holding that the movant on a 60(b)(6) presented "no reasons justifying a modification of the Global Settlement…[t]he Court finds that the [current motion is simply] another attempt by CE Corp to collect under the Global Settlement – ***an action that is expressly prohibited***" (emphasis added)). Instead, Highland dodges to the Sunset Provision in the Confirmation Order and Claimant Trust Agreement, arguing the Court "confronted two potentially conflicting provisions in two agreements". Objection at ¶ 27. Highland further argues — without any supporting authority — that resolution of the purported conflict "is precisely the type of 'extraordinary circumstance' that justified relief under Rule 60." *Id.* Tellingly, Highland fails to acknowledge that because the Claimant Trust was extended to 2026, by Highland's own action, any perceived conflict at this time was eliminated. In addition, any possible future conflicting provisions of the agreements are simply illusory as Highland and the Claimant Trustee can use their powers to seek an extension of its duration. *See e.g.*, Main Case Doc. Nos. 4213, 4298 ("This order is without prejudice to the Trusts' right to seek further extensions of their duration under the Plan or otherwise.").

4. Highland completely disregards that it previously lauded the Settlement Agreement as "fair and reasonable" and the Court found "the Settlement Agreement [to be] fair and equitable." Main Case Doc. No. 3088 at ¶¶ 41-48; Main Case Doc. No. 3298 at 2. Moreover, Highland took advantage of the Settlement Agreement for years through tolling agreements that extended the deadline for Highland's objection to Daugherty's Reserved Claim. Striking the Stay Provision now is inequitable to Daugherty. Moreover, contrary to Highland's argument, there is no actual

conflict. As Highland itself points out, the Sunset Provision has been extended multiple times and could be extended again. Further, Highland's position is myopic, if Daugherty truly is the last remaining unresolved creditor, the Claimant Trust Agreement could be modified to place Daugherty in charge of the Trust. Accordingly, Daugherty is willing to extend the Trust and does not require the extensive releases and injunctive protections demanded by Highland and its employees, the Claimant Trustee, the Litigation Trustee, the Oversight Board Members, and their professionals that were prohibited by the Fifth Circuit.

5. Next Highland contends the Court's decision was implicitly connected to Bankruptcy Code section 502(c), which allows for estimation of a contingent or unliquidated claim that would unduly delay administration of the estate. *Id.* at ¶ 28. But doing so directly conflicts with the Settlement Agreement's terms that the Court previously approved — in other words, the Court is doing nothing more than revoking its approval of the Stay Provision. Nor is this something the Court did *sua sponte*. Rather, it did so based on Highland's Cross-Motion, which Highland claimed was due to unforeseen circumstances. As Daugherty previously pointed out, courts do not, and cannot, recuse parties from their own counseled, deliberate choices that in hindsight are unfortunate. *Yesh Music v. Lakewood Church*, 727 F.3d 356, 363 (5th Cir. 2013); *see S.E.C. v. Conradt*, 309 F.R.D. 186, 187-88 (S.D.N.Y. 2015) (refusing to utilize Rule 60(b)(6) to vacate defendants' settlement agreements that resulted in consent judgments after defendants' guilty pleas in a parallel proceeding were vacated).

6. Highland also contends Daugherty could have also sought protection in the Settlement Agreement from the Claimant Trust Agreement. *Id.* at ¶ 30. But mistake is not an "extraordinary circumstance" that justifies Court intervention under Rule 60(b)(6) – the basis for Highland's Cross Motion. Fifth Circuit precedent makes clear that "mistake or inadvertence" is

covered by subsections (1)–(3) of Rule 60(b) and must be raised within one year. Fed. R. Civ. P. 60(c)(1); *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 401–02 (5th Cir. 1981); *see also Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 393 (1993) (Rule 60(b)(1) covers mistake, inadvertence, surprise, or excusable neglect, and is subject to a one-year limitation). Highland's failure to timely raise the issue with the Court, and through the appropriate motion, demonstrates that Daugherty has a substantial likelihood of success on the merits.

III. There is a significant risk of irreparable injury if the Court does not grant the stay.

7. If the Court does not grant the stay, Daugherty is at risk of irreparable injury. Allowing Highland's adversary proceeding against Daugherty to conclude before the IRS Audit is final exposes Daugherty to additional tax liability that he cannot recover from Highland. Highland fails to cite any authority in the context of a motion to stay pending appeal that such "speculative" injury is insufficient to constitute irreparable harm. *Cf. ACC Bondholder Grp. v. Adelphia Commc'ns Corp. (In re Adelphia Commc'ns Corp.)*, 361 B.R. 337, 448 (S.D.N.Y. 2007) (citing *In re Country Squire Assocs. of Carle Place, L.P.*, 203 B.R. 182, 183 (2nd Cir. BAP 1996)); *In re Texas Equipment Co., Inc.,* 283 B.R. 222, 228 (Bankr. N.D. Tex 2002); *see also Manges v. Seattle-First Nat'l Bank (In re Manges)*, 29 F.3d 1034 (5th Cir. 1994).[2]

8. Separately, Highland argues that a stay would render section 502(c) a nullity, and that "provision could never be enforced and all bankruptcy estates would be forced to remain open until all contingent and unliquidated claims were finally resolved." Objection at ¶ 36. That is simply not true. The parties' Settlement Agreement supersedes section 502(c) under the

[2] Highland also argues any harm would be self-inflicted because Daugherty chose to rely on Highland's recommendation not to accept a settlement offer the IRS made in 2018. Objection at ¶ 34. The fact that Highland is trying to twist its own recommendation in its favor to oppose Daugherty's motion to stay is offensive.

circumstances here, especially where the Court held the Settlement Agreement was fair and reasonable.

IV. There would be no harm to other parties if the Court granted the stay.

9. Highland argues a stay would harm Highland, the estate, and other creditors who have "waited years to end the Bankruptcy Case." Objection at ¶ 39. Not true. A stay would benefit all those stakeholders because it would avoid costly and time-consuming litigation (including appeals) that could prove to be an empty gesture depending on the results of the IRS' audit. In fact, any purported delay is more than offset by the litigation savings Highland and the estate will see if this appeal is allowed to proceed now, because the appeal will determine whether the Court had authority to strike the Stay Provision. If the Court did not, the effect of that ruling would be to dismiss (or at the very least stay) the adversary proceeding until the IRS makes a final determination. That saves Highland and the estate from costly litigation and appeals, including appeals that would be filed after the adversary proceeding is concluded if the IRS audit is still pending.

V. Granting the stay would further judicial economy and serve the public interest because it would give litigants confidence that courts will enforce settlement agreements.

10. Daugherty's Motion established why a stay would further judicial economy. Highland makes a conclusory argument that the stay is a waste of judicial resources because Daugherty's appeal "will fail." But as Daugherty established in his Motion and above, there is a likelihood of success on the merits. Further, a stay promotes judicial economy because it avoids piecemeal appeals. *See PYCA Indus., Inc. v. Harrison Cnty. Waste Water Mgmt. Dist.*, 81 F.3d 1412, 1421 (5th Cir. 1996); *In re Perry*, Nos. 23-5265, 23-5266, 2024 WL 68257, at *3 (E.D. La. Jan. 5, 2024). The enforceability of the "litigation stay provision" in the Settlement Agreement is

the critical issue on appeal. If that provision is determined to control, then any litigation that this Court allows to commence will be pointless and, importantly, voidable, wasting the parties' and the Court's time and resources. The parties would then have to re-litigate the adversary proceeding after the IRS' final determination. Thus, judicial economy weighs in favor of granting Daugherty's motion for stay pending appeal.

11. Highland also ignores the public interest will be served by granting a stay because the Court—and all litigants in this circuit—should value the importance of binding settlement agreements, especially like the one here that was negotiated between sophisticated parties and skilled counsel. Finally, courts should only exercise the power under Rule 60(b)(6) in the most unique circumstances. *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 401 (5th Cir. 1981). This is not one of that small subset of cases. Litigants, and not just those in this case, should have confidence that binding settlement agreements they enter will be enforced as written

WHEREFORE, Patrick Daugherty respectfully requests that the Court (a) enter an order granting the immediate motion, (b) stay the adversary proceeding captioned as *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty (In re Highland Capital Management, L.P.)*, Case No. 19-34054 (SGJ), Adversary No. 25-03055, (c) stay the enforcement of the Court's September 4, 2024 Order, and (d) grant such other and further relief as may be just and proper.

Dated: October 13, 2025.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 13th day of October 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
jpomerantz@pszjlaw.com
John A. Morris
jmorris@pszjlaw.com
Gregory V. Demo
gdemo@pszjlaw.com
Hayley R. Winograd
hwinograd@pszjlaw.com
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

HAYWARD PLLC
Melissa S. Hayward
MHayward@HaywardFirm.com
Zachery Z. Annable
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Suite 106
Dallas, Texas 75231

Counsel for Highland Capital Management, L.P.

/s/ Andrew K. York
ANDREW K. YORK

BTXN 027 (rev. 06/13)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re:	§	
Highland Capital Management, L.P.	§	
	§	Case No.: 19−34054−sgj11
Debtor(s)	§	Chapter No.: 11
Highland Capital Management, L.P.	§	
Plaintiff(s)	§	Adversary No.: 25−03055−sgj
vs.	§	
Patrick Hagaman Daugherty et al.	§	
Defendant(s)	§	

Dear Andrew York:

The above referenced case has been reviewed as part of the Clerk's Office continuing effort to identify cases that are deficient for specific documents. Our review indicates that this case requires:

- ☐ Interim Report
- ☐ Trustee's Final Account
- ☐ Trustee's Final Report
- ☐ 341 Meeting Minute Sheet and Exempt Property Report
- ☐ Report of Trustee in No−Asset Case and Application for Closing
- ☐ Motion to Dismiss debtor's Failure to Attend 341 Meeting
- ☑ Other: Please file an amended appellant designation to omit line item 3, that transcript you already listed on page 4.

Please electronically file the requested documents, provide a specific date for which this information will be provided to the Court, or provide information as to why this case should remain open. Failure to respond within 2 days from the date of this letter may result in the Court setting a status conference to determine why the document(s) has not been filed or the matter may be denied for want of prosecution.

DATED: 10/21/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/J. Blanco, Deputy Clerk
juan_blanco@txnb.uscourts.gov

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick augherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Fed. R. Bankr. P. 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the *rder (A) enying Patrick augherty s Motion to ismiss and (B) ranting Highland Capital Management, L.P. s Cross Motion for Relief from a inal rder Pursuant to Bankruptcy Rule* [Docket No. 23 in Adversary No. 25-03055], to the extent it granted relief under Federal Rule of Bankruptcy Procedure 9024 and Federal Rule of Civil Procedure 60(b). *ee Notice of Appeal* [Docket No. 25 in Adversary No. 25-03055].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

2. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, *inter alia*, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

1. Notice of Appeal for Adversary No. 25-03055 [Docket No. 25].

2. The Judgment Order or Decree appealed from: *rder (a) enying Patrick augherty s Motion to ismiss and ( ) ranting Highland Capital Management, L.P. s Cross Motion for Relief from a inal rder Pursuant to Bankruptcy Rule* [Docket No. 23 in Adversary No. 25-03055].

3. Docket Sheet for Adversary Case No. 25-03055 kept by the Bankruptcy Clerk.

4. Documents listed below for Bankruptcy Case No. 19-34054-sgj11:

Date	Docket	Description
05/02/2025	1	Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet).
06/04/2025	5	Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)
07/18/2025	9	Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order)
07/18/2025	10	Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order)
07/18/2025	11	Declaration re: *(eclaration of John A. Morris in upport of Highland Capital Management, L.P. s (A) ection to Patrick augherty s Motion to ismiss and (B) Cross Motion for Relief from a inal rder Pursuant to Bankruptcy Rule)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s) 9 Response, 10 Motion for leave *(Highland Capital Management, L.P. s (A) ection to Patrick augherty s Motion to ismiss and (B) Cross Motion for Relief from a inal rder Pursuant to Bankruptcy Rule)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4)
08/08/2025	15	Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff s Cross Motion for Relief from a inal rder Pursuant to Bankruptcy Rule* filed by Defendant Patrick Hagaman Daugherty.
08/15/2025	16	Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P. s Reply in urther upport of Its Cross Motion for Relief from a inal rder Pursuant to Bankruptcy Rule)* filed by Plaintiff Highland Capital Management, L.P..

Date	Docket	Description
08/29/2025	19	Witness and Exhibit List *for Hearing cheduled for eptem er , at a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P. s (A) ection to Patrick augherty s Motion to ismiss and (B) Cross Motion for Relief from a inal rder Pursuant to Bankruptcy Rule)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit)
09/04/2025	20	Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s) 5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P. s (A) ection to Patrick augherty s Motion to ismiss and (B) Cross Motion for Relief from a inal rder Pursuant to Bankruptcy Rule)*). (Attachments: # 1 Exhibit 1)
09/05/2025	23	Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025.
09/19/2025	25	Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)
09/30/2025	35	Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s) 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s) 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this amended designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver, of any and all rights, remedies, challenges and objections.

Respectfully submitted this 22nd day of October 2025.

GRAY REED

By: */s/ Andre . ork*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick augherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 22nd day of October 2025, via the CM/ECF system and/or email.

/s/ Andre . ork
ANDREW K. YORK

BTXN 099 (rev. 12/14)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s) Patrick Daugherty, et al. Appellant(s) vs. Highland Capital Management, L.P., et al Appellee(s)	§	Case No.: 19−34054−sgj11 Chapter No.: 11 Adversary No.: 25−03055−sgj Civil Action No.: 3:25−cv−02584−E

TRANSMITTAL AND CERTIFICATION OF RECORD ON APPEAL

Pursuant to Federal Rules of Bankruptcy Procedure 8010, the appeal filed on 9/19/2025 regarding Order (a) Denying Patrick Duaghertys Motion to Dismiss and (b) Granting Highland Capital Management, L.P.s Cross Motion for Relief From a Final Order Pursuant to Bankruptcy Rule 9024 entered on 9/5/25 by Patrick Daugherty in the above styled bankruptcy case is hereby transmitted to the U.S. District Court for the Northern District of Texas.

This record on appeal contains all items listed on the attached index, and is in compliance with Rule 8010 of the Federal Rules of Bankruptcy Procedure.

All further pleadings or inquiries regarding this matter should be directed to the U.S. District Clerk's Office until such time as the appeal is fully processed in the U.S. District Court.

The above referenced record was delivered to the U.S. District Clerk's Office on October 22, 2025.

DATED: 10/22/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Jeanette Almaraz, Deputy Clerk

BTXN 099 (rev. 12/14)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s) Patrick Daugherty, et al. Appellant(s) vs. Highland Capital Management, L.P., et al Appellee(s)	§	Case No.: 19−34054−sgj11 Chapter No.: 11 Adversary No.: 25−03055−sgj Civil Action No.: 3:25−cv−02584−E

TRANSMITTAL AND CERTIFICATION OF RECORD ON APPEAL

Pursuant to Federal Rules of Bankruptcy Procedure 8010, the appeal filed on 9/19/2025 regarding Order (a) Denying Patrick Duaghertys Motion to Dismiss and (b) Granting Highland Capital Management, L.P.s Cross Motion for Relief From a Final Order Pursuant to Bankruptcy Rule 9024 entered on 9/5/25 by Patrick Daugherty in the above styled bankruptcy case is hereby transmitted to the U.S. District Court for the Northern District of Texas.

This record on appeal contains all items listed on the attached index, and is in compliance with Rule 8010 of the Federal Rules of Bankruptcy Procedure.

All further pleadings or inquiries regarding this matter should be directed to the U.S. District Clerk's Office until such time as the appeal is fully processed in the U.S. District Court.

The above referenced record was delivered to the U.S. District Clerk's Office on October 22, 2025.

DATED: 10/22/25

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Jeanette Almaraz, Deputy Clerk

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adv. Proc. No. 25-03055-sgj

CERTIFICATE OF SERVICE

I, Patrick M. Leathem, depose and say that I am employed by Kurtzman Carson Consultants, LLC dba Verita Global ("Verita"), the claims and noticing agent for the Reorganized Debtor in the bankruptcy case of *Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N.D. Tex).

On September 25, 2025, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **Stipulated Scheduling Order** [Docket No. 31]

Dated: October 22, 2025

/s/ *Patrick M. Leathem*
Patrick M. Leathem
Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

[1]Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

EXHIBIT A

Exhibit A
Adversary Service List
Served via Electronic Mail

Description	CreditorName	CreditorNoticeName	Email
Counsel to Patrick Daugherty	Gray Reed	Jason S. Brookner, Andrew K. York, Joshua D. Smeltzer, Drake M. Rayshell, William Drabble	jbrookner@grayreed.com; dyork@grayreed.com; jsmeltzer@grayreed.com; drayshell@grayreed.com; wdrabble@grayreed.com
Counsel for the Debtor	Hayward & Associates PLLC	Melissa S. Hayward, Zachery Z. Annable	MHayward@HaywardFirm.com; ZAnnable@HaywardFirm.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Richard M. Pachulski, Jeffrey N. Pomerantz, Ira D. Kharasch, James E. O'Neill, Robert J. Feinstein, John A. Morris, Gregory V. Demo	rpachulski@pszjlaw.com; jpomerantz@pszjlaw.com; ikharasch@pszjlaw.com; joneill@pszjlaw.com; rfeinstein@pszjlaw.com; jmorris@pszjlaw.com; gdemo@pszjlaw.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Robert Joel Feinstein, Hayley R. Winograd, Judith Elkin, Jordan A Kroop, Robert J Feinstein	rfeinstein@pszjlaw.com; hwinograd@pszjlaw.com; jelkin@pszjlaw.com

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S ANSWER TO PATRICK DAUGHERTY'S ORIGINAL COUNTERCLAIM

Plaintiff/Counter-Defendant Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor", as applicable), by and through its undersigned counsel, hereby answers the *Original Counterclaim* [Docket No. 39] (the "Counterclaim") filed by Defendant/Counter-Plaintiff Patrick Daugherty ("Daugherty"), as follows:

I. RESPONSE TO "PRELIMINARY STATEMENT"

1. Highland admits the allegations contained in Paragraph 1 of the Counterclaim that on November 22, 2021, Daugherty and Highland signed a Settlement Agreement. Highland denies that Daugherty acquired the "interests in HERA and ERA" via the Settlement Agreement as such acquisition was made by way of a separate legal transfer, albeit pursuant to the terms of the Settlement Agreement. Highland denies the allegations contained in the second sentence of Paragraph 1 to the extent that they misstate Daugherty's rights and Highland's obligations under the Settlement Agreement. Highland denies the remaining allegations contained in Paragraph 1.

2. Highland denies the allegations contained in the first sentence of Paragraph 2 of the Counterclaim. As to the allegations in the second sentence of Paragraph 2, Highland is without sufficient information to determine their truth or falsity, and accordingly, denies those allegations. Highland denies the allegations contained in the third sentence of Paragraph 2 to the extent that they misstate Daugherty's rights and Highland's obligations under the Settlement Agreement. Highland denies the remaining allegations contained in Paragraph 2.

II. RESPONSE TO "JURISDICTION AND VENUE"

3. Highland admits the allegations contained in Paragraph 3 of the Counterclaim.

III. RESPONSE TO "PARTIES"

4. Highland admits the allegations contained in Paragraph 4 of the Counterclaim to the best of its current knowledge.

5. Highland admits the allegations contained in Paragraph 5 of the Counterclaim.

IV. RESPONSE TO "FACTUAL BACKGROUND"

6. Highland admits the portion of the allegations contained in the first sentence of Paragraph 6 of the Counterclaim except to clarify that Highland executed the Settlement Agreement on November 21, 2021, and Daugherty executed the Settlement Agreement on November 22, 2021, but Highland denies the remaining allegations contained in that sentence. Highland admits the allegations contained in the second sentence of Paragraph 6 that the Court approved the Settlement Agreement on March 8, 2022.

7. Highland admits the allegations contained in Paragraph 7 of the Counterclaim, except to clarify that the correct legal name of the "ERA" entity as described in Paragraph 7 is "Highland ERA Management, LLC", not "ERA Management, LLC".

8. With respect to the allegations contained in the first and second sentences of Paragraph 8 of the Counterclaim, the referenced document speaks for itself, but to the extent a response is required, Highland admits these allegations. With respect to the allegations contained in the third sentence of Paragraph 8, Highland admits that although Daugherty previously made certain information requests to Highland, Highland has denied those requests since at least March 2022 because Daugherty seeks information that he is not entitled to under the Settlement Agreement and Highland has fully complied with its obligations thereunder. Highland denies the

allegations contained in the fourth sentence of Paragraph 8. With respect to the allegations contained in the last sentence of Paragraph 8, Highland admits that Daugherty brings his Counterclaim but denies that Daugherty is entitled to any relief sought therein.

V. RESPONSES TO "CAUSES OF ACTION"

Count I – Breach of Contract

9. In response to Paragraph 9 of the Counterclaim, Highland incorporates by reference the above paragraphs.

10. Highland admits the allegations contained in Paragraph 10 of the Counterclaim except with respect to the execution dates.

11. Highland denies the allegations contained in Paragraph 11 of the Counterclaim.

12. Highland denies the allegations contained in the first sentence of Paragraph 12 of the Counterclaim. With respect to the second portion of Paragraph 12, which cites to Paragraph 8 of the Settlement Agreement, the referenced document speaks for itself.

13. Highland is generally aware of the existence of the pending litigation described in the first sentence of Paragraph 13, but Highland is without sufficient information to determine the truth or falsity of the allegations contained in Paragraph 13 of the Counterclaim, and accordingly, denies those allegations.

14. Highland denies the allegations contained in Paragraph 14 of the Counterclaim and avers that on October 8, 2025, it provided a list of the boxes of documents subject to the referenced motion with an offer to, "assuming they are plausibly related to some on-going litigation, . . . arrange to have them copied at [Daugherty's] expense and provide them pursuant to an agreed-upon confidentiality agreement."

15. In response to Paragraph 15 of the Counterclaim, Highland admits that in his Counterclaim, Daugherty asks this Court to find that Highland breached the Settlement Agreement, but Highland denies that it breached any agreement and denies that Daugherty is entitled to any relief.

Count II – Specific Performance

16. In response to Paragraph 16 of the Counterclaim, Highland incorporates by reference the above paragraphs.

17. Highland admits that the Settlement Agreement is binding but denies the remaining allegations contained in Paragraph 17 of the Counterclaim.

18. Highland denies the allegations contained in Paragraph 18 of the Counterclaim.

19. Highland denies the allegations contained in the first sentence of Paragraph 19 of the Counterclaim. With respect to the portion of Paragraph 19, which cites to Paragraph 8 of the Settlement Agreement, the referenced document speaks for itself.

20. Highland denies the allegations contained in Paragraph 20 of the Counterclaim.

21. Highland denies the allegations contained in Paragraph 21 of the Counterclaim.

22. Highland denies the allegations contained in Paragraph 22 of the Counterclaim.

Count III – Attorneys' Fees

23. In response to Paragraph 23 of the Counterclaim, Highland incorporates by reference the above paragraphs.

24. Highland denies the allegations contained in the first sentence of Paragraph 24 of the Counterclaim. In response to the allegations contained in the second sentence of Paragraph 24, (a) the allegations contain legal conclusions which Highland is not required to admit or deny, (b) to the extent a response is required, Highland denies the allegations, and (c) Highland admits that in the Counterclaim, Daugherty asks the Court to award him attorneys' fees, but denies that

Daugherty is entitled to such relief. Highland denies the remaining allegations contained in Paragraph 24 of the Counterclaim.

RESPONSE TO "CONCLUSION AND PRAYER"

The remainder of the Counterclaim contains a "Prayer" to which no response is required. However, to the extent a response is required, Highland denies that Daugherty has any viable claims or causes of action against it or that Daugherty is entitled to any relief against it (whether included in the "Prayer" or otherwise).

FIRST AFFIRMATIVE DEFENSE

Highland denies each and every allegation of the Counterclaim that is not specifically admitted.

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

Daugherty's Counterclaims are barred by the applicable statute of limitations. Under Delaware law, breach of contract claims must be filed within three (3) years from the time the contract is breached. Daugherty's Counterclaim is premised on an alleged breach of the Settlement Agreement that Daugherty asserts occurred in March 2022 (*see* Counterclaim ¶ 8), more than three years ago. Accordingly, the Counterclaim is barred by the statute of limitations.

THIRD AFFIRMATIVE DEFENSE

(Failure to State a Claim)

Daugherty's Counterclaims fail to state a claim upon which relief can be granted against Highland.

FOURTH AFFIRMATIVE DEFENSE

(Bad Faith)

Daugherty commenced this action in bad faith against Highland.

FIFTH AFFIRMATIVE DEFENSE

(Unclean Hands)

Daugherty's action is barred by the doctrine of unclean hands.

SIXTH AFFIRMATIVE DEFENSE

(Right to Assert Affirmative Defenses)

Highland reserves the right to assert additional affirmative defenses based upon further investigation and discovery.

WHEREFORE, having fully answered the Counterclaim as set forth herein, Highland requests (a) that the Counterclaim be dismissed with prejudice, and (b) such other relief as the Court deems just and proper.

Dated: October 24, 2025

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

IN THE UNITED STATES DISTRICT CORT
FOR THE NORTHERN DISTRICT OF TEXAS,
DALLAS DIVISION

In re: Highland Capital Management, L.P., Reorganized Debtor	§ § § § §	Chapter 11 Case No. 19-34054-sgj11
Patrick Daugherty, Appellant, v. Highland Capital Management, L.P. et al., Appellees.	§ § § § § § § § § §	 Civil Action No. 3:25-CV-2584-E

STIPULATION CONCERNING
SUPPLEMENT TO RECORD ON APPEAL

Pursuant to Federal Rule of Bankruptcy Procedure 8009(e)(2), this stipulation (the "Stipulation") is made by and between Appellant, Patrick Daugherty ("Appellant" or "Daugherty"), and Appellees, Highland Capital Management, L.P. and the Highland Claimant Trust (together, "Appellees," and collectively with Appellant, the "Parties"), by and through their respective counsel.

RECITALS

WHEREAS, on September 5, 2025, the United States Bankruptcy Court for the Northern District of Texas Dallas Division (the "Bankruptcy Court") entered that

certain *Order (A) Denying Patrick Daugherty's Motion to Dismiss and (B) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from A Final Order Pursuant to Bankruptcy Rule 9024* (the "Order"). [Adv. Proc. 25-03055-sgj, Doc. No. 23].

WHEREAS, on September 19, 2025, Daugherty filed his *Notice of Appeal* of the Order ("Daugherty's Appeal"). [Adv. Proc. 25-03055-sgj, Doc. No. 23].

WHEREAS, on October 22, 2025, Daugherty filed *Appellant's Amended Designation of Items to be Included in the Record on Appeal and Statement of Issues Presented* (the "Record Designation"). [Adv. Proc. 25-03055-sgj, Doc. No. 51].

WHEREAS, on October 22, 2025, the Clerk of Court for the Bankruptcy Court filed that certain *Transmittal and Certification of Record on Appeal*. [Doc. No. 15].

WHEREAS, on November 20, 2025, Daugherty's counsel contacted Appellees' counsel regarding the unintentional omission, by accident or error, of certain items from the Record Designation necessary for the Court's consideration of Daugherty's Appeal.

WHEREAS, Federal Rule of Bankruptcy Procedure 8009(e)(2)(A) permits the supplement and certification of the record on appeal by Stipulation of the Parties.

WHEREAS, the Parties have conferred in good faith and hereby agree to the supplementation and certification of the record on Daugherty's Appeal.

NOW, WHEREFORE, IT IS HEREBY JOINTLY STIPULATED AND AGREED as follows:

1. Pursuant to Federal Rule of Bankruptcy Procedure 8009(e)(2)(A), the Parties agree, and hereby stipulate that, the record on appeal may be supplemented and certified to include the items in the chart below and attached hereto.

2. Each of the items in the chart below, and attached hereto, were omitted by either accident, error, or both.

3. Each of the items in the chart below, and attached hereto, are true and correct copies of the same.

4. The record on appeal in the above-styled proceeding is hereby supplemented and certified to include the following items:

Exhibit	Date	Docket	Description	ROA #
A	01/22/21	[Cause No. 19-34054-sgj11, Doc. No. 1808]	Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)	1001 - 1066
B	02/22/21	[Cause No. 19-34054-sgj11, Doc. No. 1943]	Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified) and (II) Granting Related Relief	1067 - 1227

Exhibit	Date	Docket	Description	ROA #
C	03/08/22	[Cause No. 19-34054-sgj11, Doc. No. 3298]	Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith	1228 - 1231
D	06/05/23	[Cause No. 19-34054-sgj11, Doc. No. 3817-4, Ex. 38][1]	The Claimant Trust Agreement	1232 - 1271

[*Remainder of Page Intentionally Left Blank*]

[1]The document filed at Doc. No. 3817-4 is a fully executed Claimant Trust Agreement the form of which was first filed by Highland on January 22, 2021 (Cause No. 19-34054-sgj11, Doc. No. 1811-2 (Exhibit R)), as amended on February 1, 2021 (Cause No. 19-34054-sgj11, Doc. No. 1875-4 (Exhibit EE)), in advance of Highland's confirmation hearing.

SO STIPULATED AND AGREED:

Dated: November 21, 2025.

GRAY REED

/s/ *Drake M. Rayshell*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
William N. Drabble
Texas Bar No. 24074154
Joshua D. Smeltzer
Texas Bar No. 24113859
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
wdrabble@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty, Appellant

-AND -

PACHULSKI STANG ZIEHL & JONES LLP

/s/ *John A. Morris (w/ permission)*
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P. and Highland Claimant Trust, Appellees

CERTIFICATE OF CONFERENCE

I hereby certify that counsel for Appellant and Appellees conferred in good faith regarding the contents of this Stipulation and its exhibits by email on November 20 and 21, 2025, and ultimately the Parties agreed upon its language and content.

/s/ Drake M. Rayshell
DRAKE M. RAYSHELL

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 21st day of November 2025, via the CM/ECF system and/or email.

/s/ Drake M. Rayshell
DRAKE M. RAYSHELL

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

HIGHLAND CAPTITAL MANAGEMENT, L.P.'S NOTICE OF SUBPOENA DIRECTED TO HUNTON ANDREWS KURTH LLP

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, made applicable herein by Rule 9016 of the Federal Rules of Bankruptcy Procedure, Highland Capital Management, L.P. ("Highland" or the "Reorganized Debtor"), the reorganized debtor in the above-captioned chapter 11 case (the "Bankruptcy Case"), by and through its undersigned counsel, caused a *ubpoena to Appear and estify at a Deposition in a an ruptcy Case or Adversary Proceeding* , a copy of which is attached as **Exhibit A**, to be served upon Hunton Andrews Kurth LLP for appearance at a deposition on **January 23, 2026 commencing at 9:30 a.m. Central Time** or at such other day and time as Highland may agree in writing, in connection with the *Complaint for Disallo ance of Claim o. in ts ntirety, stimation of Claim o. for Allo ance Purposes, or ubordination of Any Allo ed Portion of Claim o. of Patric Hagaman Daugherty* [Adv. Proc. Docket No. 1].

The deposition will be taken remotely via an online platform. Parties who wish to participate in the deposition should contact John A. Morris, Pachulski Stang Ziehl & Jones LLP, at jmorris@pszjlaw.com **no fewer than 72 hours before the start of the deposition** for more information regarding participating in this deposition remotely.

Dated: December 19, 2025

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

EXHIBIT A

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF TEXAS

In re HIGHLAND CAPITAL MANAGEMENT, L.P.
Reorganized Debtor.

Case No. 19-34054-sgj11

HIGHLAND CAPITAL MANAGEMENT, L.P.,
Plaintiff/Counter-Defendant,
v.

Chapter _____

PATRICK HAGAMAN DAUGHERTY,
Defendant/Counter-Plaintiff.

Adv. Proc. No. 25-03055-sgj

SUBPOENA TO TESTIFY AT A DEPOSITION IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Hunton Andrews Kurth LLP
(Name of person to whom the subpoena is directed)

☒ *Testimony*: **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters: **See Exhibit B attached.**

PLACE	DATE AND TIME
Deposition will be conducted virtually	January 23, 2026 at 9:30 a.m. (CT)

The deposition will take place before a court reporter and will be recorded by stenographic means, may be videotaped, and shall continue from day to day until it has been completed.

☒ *Production*: **YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or object at the place, date and time specified below: **See Exhibit B attached.**

PLACE: Pachulski Stang Ziehl & Jones LLP, 1700 Broadway, 36th Floor, New York, NY 10019, Attn: John A. Morris, Esq.	DATE AND TIME January 16, 2026

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: December 19, 2025

CLERK OF COURT

OR

_____ /s/ John A. Morris
Signature of Clerk or Deputy Clerk *Attorney's signature*
John A. Morris, Esq.

The name, address, email address, and telephone number of the attorney representing *(name of party)* Highland Capital Management, L.P. , who issues or requests this subpoena, are:

John A. Morris, Esq., Pachulski Stang Ziehl & Jones LLP, 1700 Broadway, 36th Floor, New York, NY 10019

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

American LegalNet, Inc.
www.FormsWorkFlow.com

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any):* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

[_____] _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

_____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of $ _____.

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____.

I declare under penalty of perjury that this information is true and correct.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information concerning attempted service, etc.:

American LegalNet, Inc.
www.FormsWorkFlow.com

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2)For Other Discovery. A subpoena may command:

(A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B)Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

…

(g) Contempt. The court for the district where compliance is required – and also, after a motion is transferred, the issuing court – may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013)

American LegalNet, Inc.
www.FormsWorkFlow.com

EXHIBIT B

INSTRUCTIONS

1. For each Document (as defined below) withheld by reason of a claim of privilege, provide a privilege log identifying such Document together with: (a) the date of the Document; (b) the identity of the author or preparer; (c) the identity of each person who was sent or furnished with the Document or who received or had possession or custody of the document; (d) a description of the Document, including identification of any attachments or appendices; (e) a statement of the basis of the claim of privilege; and (f) the paragraph of this request to which the document is responsive. In the case of Documents concerning a meeting or conversation, identify all participants in the meeting or conversation.

2. Each Document shall be produced in a fashion that indicates clearly the file in which it was located.

3. If a Document cannot be produced in full, produce it to the extent possible, identify the portion that cannot be produced, and specify the reasons for Your (as defined below) inability to produce the remainder.

4. You are required to produce ESI (as defined below) in searchable form on DVDs, CD-ROMs or other media to be mutually agreed by the parties.

5. Documents may be produced in paper format or electronically. If Documents are produced electronically, or if any ESI is produced, the following formatting should be used:

- Use .tif format for all Documents that were not originally in Excel format, in which case, use .xls or .xlsx format;

- If possible, without creating undue delay, please produce Documents in Summation-ready DVDs, CD-ROMs or other media to be mutually agreed by the parties with .tiff and text format, and with a Summation load file; and
- Transmit electronic Documents or ESI on DVDs, CD-ROMs or other media to be mutually agreed by the parties or use an ftp site upload.

6. These Requests shall be deemed continuing and supplemental answers shall be required if You directly or indirectly obtain further information after Your initial response as required by Fed. R. Bank. P. 7026(e).

7. The use of either the singular or plural shall not be deemed a limitation. The use of the singular includes the plural, and vice versa.

8. Any Document that contains any comment, notation, addition, insertion or marking of any type or kind which is not part of another Document, is to be considered a separate Document.

9. The Requests seek Documents and Communications created, sent, or received between January 1, 2018, and the date of Your responses to these Requests.

DEFINITIONS

1. "2008 Audit" means the IRS's audit of Highland's 2008 tax return.

2. "Communications" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise) and includes all oral and written communications of any nature, type or kind including, but not limited to, any ESI (and any attachments thereto), Documents, telephone conversations, text messages, discussions, meetings, facsimiles, e-mails, pagers, memoranda, and any other medium through which any information is conveyed or transmitted.

3. "Concerning" means and includes relating to, constituting, defining, evidencing, mentioning, containing, describing, discussing, embodying, reflecting, edifying, analyzing, stating, referring to, dealing with, or in any way pertaining to the subject matter.

4. "Daugherty" means means Patrick Hagaman Daugherty and anyone with actual or apparent authority to act on his behalf, including his accountant or legal counsel.

5. "Document" means and includes all written, recorded, transcribed or graphic matter of every nature, type and kind, however and by whoever produced, reproduced, disseminated or made. This includes, but is not limited to, Communications, ESI, "writings" as defined by Rule 1001 of the Federal Rules of Evidence, copies or drafts, any tangible or intangible thing or item that contains any information, but specifically *excluding* any Documents provided by You to the IRS in response to any Information Document Request made in connection with the 2008 Audit.

6. "ESI" has the meaning ascribed to it in Federal Rules of Civil Procedure 16, 26, and 34(a).

7. "Highland" means Highland Capital Management, L.P., including its current and former officers, employees, and agents (*e.g.*, outside counsel).

8. "Hunton" means the law firm Hunton Andrews Kurth LLP, including its attorneys and representatives and predecessors.

9. "IRS" refers to the Internal Revenue Service, including its employees and representatives.

10. "You" or "Your" refers to Hunton.

DOCUMENT REQUESTS

Request No. 1:

All Communications between You and the IRS Concerning the 2008 Audit, including Documents provided by (i) You to the IRS or (ii) the IRS to You.

Request No. 2:

All Communications between You and Daugherty Concerning the 2008 Audit.

Request No. 3:

All Documents filed with any court of law Concerning the 2008 Audit.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S MOTION TO COMPEL PRODUCTION OF AUDIO RECORDINGS, TRANSCRIPTS, AND RELATED DOCUMENTS

Plaintiff/Counter-Defendant Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor," as applicable), by and through its undersigned counsel, hereby files its *Motion to Compel Production of Audio Recordings, Transcripts and Related Documents* (the "Motion") in the above-captioned adversary proceeding (the "Adversary Proceeding"). In support of its Motion, Highland respectfully states as follows:

I. PRELIMINARY STATEMENT[2]

1. Patrick Daugherty ("Daugherty") secretly recorded certain one-on-one telephone conversations he had with James Seery, Highland's CEO, and possesses audio recordings or transcripts of such conversations (the "Secret Recordings"). Yet, Daugherty refuses to produce these Secret Recordings (or any other conversations he may have surreptitiously recorded with other Highland representatives) in response to Highland's Requests on the sole ground that such information is somehow not "relevant" to this proceeding. Contrary to Daugherty's conclusory objections, the Requested Information is plainly relevant and within the broad scope of permissible discovery under Rule 26(b)(1).

2. First, given the limited nature of Daugherty's relationship with Seery, the Secret Recordings and related documents and information likely concern information that goes to the heart of the issues in this Adversary Proceeding, including (a) the negotiation of the Settlement Agreement that carved out Daugherty's contingent Reserved Claim for later resolution, (b) the status of the 2008 Audit and related matters, and (c) Daugherty's ill-founded quest to expand his

[2] Capitalized terms used and not defined in this Preliminary Statement have the meanings ascribed to such terms below.

demand for HERA's and ERA's "books and records (spreadsheet) maintained on Highland's system," which records were provided to him years ago.

3. Even if the Secret Recordings do not directly concern these issues, the Requested Information is still relevant because it pertains to Daugherty's credibility and trustworthiness. Such issues are well within the scope of Rule 26(b)(1)'s broad scope of discovery. Notably, Daugherty does not object on privilege grounds nor does he contend that production of responsive documents is burdensome. Moreover, Daugherty has no legitimate interest in continuing to conceal his Secret Recordings with his adversaries—and he certainly should not be permitted to effectively serve as the judge here, unilaterally reviewing the Secret Recordings and deciding on his own what is "relevant" under Rule 26(b)(1).

4. For the reasons set forth below, the Motion should be granted.

II. RELEVANT FACTUAL BACKGROUND

A. Daugherty's Reserved Claim and the Parties' Settlement Agreement

5. On October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") commencing the above-captioned bankruptcy case (the "Bankruptcy Case").

6. On April 1, 2020, Daugherty filed Proof of Claim No. 67 ("Claim 67"). On April 6, 2020, Daugherty filed Proof of Claim No. 77 ("Claim 77"), which superseded and replaced Claim 67 in its entirety. On December 23, 2020, Daugherty filed Proof of Claim No. 205 ("Claim 205"), which superseded and replaced Claim 77 in its entirety. Claim 205 included a purported tax claim for $1,475,816 of "Compensation Award" plus $1,174,537 of "Estimated Interest", for a total of $2,650,353 arising from Daugherty's limited partnership interest in Highland from 2008.[3]

[3] Daugherty was an employee of Highland from 1998 to 2011 and a limited partner in Highland from 2004 to 2011.

7. On November 22, 2021, Highland and Daugherty entered into that certain *Settlement Agreement* (the "Settlement Agreement") resolving all of Claim 205 other than Daugherty's claim related to any potential reversal of the approximately $1,475,816 refund that he received from the IRS with respect to his 2008 tax returns (*i.e.*, the Reserved Claim, as defined in the Settlement Agreement).

8. On December 8, 2021, Highland filed *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the "Settlement Motion"). The Settlement Motion was approved by the Bankruptcy Court on March 8, 2022. [Bankr. Docket No. 3298].

9. Pursuant to the Settlement Agreement, Highland transferred to Daugherty Highland's interests in Highland Employee Retention Assets LLC ("HERA") and ERA Management, LLC ("ERA"), shell entities that had previously been used by Highland after the global financial crisis to retain and compensate certain personnel. In compliance with the Settlement Agreement, Highland also delivered to Daugherty copies of "the HERA and ERA books and records (spreadsheet) maintained on [Highland's] system." Settlement Agreement ¶ 8.

B. Highland Commences the Adversary Proceeding

10. On May 2, 2025, Highland commenced this Adversary Proceeding by filing its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Adv. Docket No. 1] (the "Complaint"). In its Complaint, Highland seeks to disallow, estimate for allowance purposes, or subordinate Daugherty's contingent Reserved Claim.

C. Daugherty Files His Counterclaim

11. On October 3, 2025, Daugherty filed his *Original Counterclaim* [Adv. Proc. Docket No. 39] (the "Counterclaim"). In his first Counterclaim, Daugherty alleges that Highland "breached the Settlement Agreement by refusing to turn over all the HERA and ERA books and records in Highland's possession." Counterclaim ¶ 12. On October 24, 2025, Highland filed its answer to the Counterclaim [Docket No. 56].

D. Daugherty Secretly Records Conversations with Jim Seery

12. Daugherty is the defendant in an unrelated lawsuit commenced in January 2022 in the 101st Judicial District Court of Dallas County, Texas, captioned *Scott Byron Ellington v. Patrick Daugherty*, Cause No. DC-22-00304. In that action, Highland's former general counsel, Scott Ellington, alleges that Daugherty stalked and harassed Ellington and his family (the "Stalking Suit").

13. While reviewing recent entries on the public docket in the Stalking Suit, Highland learned that Daugherty secretly recorded conversations between Daugherty and Seery (the "Secret Recordings"). Specifically, on August 28, 2025, Daugherty produced to Ellington a 26-minute audio recording of a May 4, 2022 conversation that purported to be between Daugherty and Seery. Daugherty admitted to secretly recording Seery in connection with the Stalking Suit and during the Bankruptcy Case in which "Daugherty is now adverse to Seery and [Highland] in connection with Daugherty's proof of claim." Winograd Dec. **Exhibit 1** (*Defendant's Response to Plaintiff's Sixth Motion to Compel*) ¶ 17.[4] *See also* Winograd Dec. **Exhibit 2** (August 28, 2025 Daugherty

[4] "Winograd Dec." refers to the *Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* filed concurrently herewith.

Deposition Transcript) at 102:1-105:25; Winograd Dec. **Exhibit 3** (*Plaintiff's Sixth Motion to Compel*) ¶¶ 7-8.

14. Daugherty's Secret Recordings appear to be of private telephone conversations which were recorded without any permission from, or notice to, Seery. Any other recordings of Highland personnel were likewise done without their knowledge or consent. Daugherty has no personal or business relationship with Seery or any other Highland personnel except with respect to his Class 8 and Class 9 claims in the Bankruptcy Case (which have been paid in full) and his Reserved Claim, which has been disputed since 2020. Thus, the only substantive subjects about which Daugherty would likely have conversed with Seery or the other Highland personnel concern the Bankruptcy Case, the Settlement Agreement, and Daugherty's claims, including the disputed Reserved Claim.

E. The Parties Engage in Discovery

15. On October 24, 2025, Highland served Daugherty with, among other things, *Highland Capital Management, L.P.'s Requests for the Production of Documents Directed to Patrick Daugherty* (the "Requests"). Requests 9 and 10 seek the information and documents subject to this Motion (the "Requested Information"). Specifically, Requests 9 and 10 seek documents concerning the Secret Recordings and any other recordings of conversations between Daugherty and Highland's representatives concerning Daugherty's Reserved Claim. *See* Winograd Dec. **Exhibit 4** (Requests 9 and 10).

16. Daugherty objected to Requests 9 and 10 (the "Objections"), not on grounds of privilege or burden, but solely on relevance grounds:

> **REQUEST NO. 9:**
>
> All audio or other recordings of any conversations between You and Seery, including any purported transcript or summary of any such conversations.

> **RESPONSE:** Daugherty objects that the request seeks documents that are not relevant to the claims or defenses asserted in this adversary proceeding. Fed. R. Civ. P. 26(b)(1). Any recorded conversations have no bearing on Plaintiff's claims in this action, which relate solely to the treatment of Daugherty's Reserved Claim. Based on this objection, Daugherty is not producing any responsive documents.
>
> **REQUEST NO. 10:**
>
> All audio or other recordings of any conversation between You and any current or former employee, agent, or representative of Highland concerning the 2008 Refund, the 2008 K-1, and the 2008 Audit, including any purported transcript or summary of any such conversation.
>
> **RESPONSE:** Daugherty objects that the request seeks documents that are not relevant to the claims or defenses asserted in this adversary proceeding. Fed. R. Civ. P. 26(b)(1). Any recorded conversations have no bearing on Plaintiff's claims in this action, which relate solely to the treatment of Daugherty's Reserved Claim. Based on this objection, Daugherty is not producing any responsive documents.

Winograd Dec. **Exhibit 5** (Daugherty's Objections) at 5.

17. The parties (through counsel) met and conferred by email and Zoom calls and resolved all discovery disputes except those concerning the Requested Information. As to that, Daugherty stands by his relevance Objections and refuses to provide the Requested Information.

III. ARGUMENT

A. Legal Standard

18. Rule 26 of the Federal Rules of Civil Procedure (incorporated in this Adversary Proceeding by Rule 7026 of the Federal Rules of Bankruptcy Procedure) permits broad discovery of "any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case." FED. R. CIV. P. 26(b)(1). "To be relevant under Rule 26(b)(1), a document or information need not, by itself, prove or disprove a claim or defense or have strong probative force or value." *Samsung Elecs. Am., Inc. v. Yang Kun Chung*, 321 F.R.D. 250, 280 (N.D. Tex. 2017). Thus, "courts construe discovery rules liberally to serve the purposes of discovery: providing parties with information essential to the proper litigation of all relevant facts, eliminating

surprise, and promoting settlement." *Kinney v. Select Portfolio Servs.*, 2015 WL 7871044, at *2 (S.D. Tex. Dec. 3, 2015) (internal quotations omitted); *see also Rangel v. Gonzalez Mascorro*, 274 F.R.D. 585, 590 (S.D. Tex. 2011) ("The threshold for relevance at the discovery stage is lower than at the trial stage."); *Exp. Worldwide, Ltd. v. Knight*, 241 F.R.D. 259, 262 (W.D. Tex. 2006) ("Relevancy is construed liberally so that the basic issues and facts of the case are disclosed to the fullest extent practical.").

19. A litigant may request the production of documents falling "within the scope of Rule 26(b)" from another party if the documents are in that party's "possession, custody, or control." FED. R. CIV. P. 34(a). To enforce discovery rights, a "party seeking discovery may move for an order compelling an answer, designation, production, or inspection." FED. R. CIV. P. 37(a)(3); *see also Smith v. DeTar Hosp. LLC*, 2011 WL 6217497, at *2 (S.D. Tex. Dec. 14, 2011) ("The party posing discovery may move to compel the disclosure of any materials requested so long as such discovery is relevant and otherwise discoverable.") (citing FED. R. CIV. P. 37(a)).

20. "The party resisting discovery must show specifically how each discovery request is not relevant or otherwise objectionable." *Murillo Modular Grp., Ltd. v. Sullivan*, 2016 WL 6139096, at *3 (N.D. Tex. Oct. 20, 2016) (citing *McLeod, Alexander, Powel & Apffel, P.C. v. Quarles*, 894 F.2d 1482, 1485 (5th Cir. 1990)); *Orchestrate HR, Inc. v. Trombetta*, 178 F. Supp. 3d 476, 506 (N.D. Tex 2016) (noting that in order to successfully resist a motion to compel, the opposing party must "specifically object and show that the requested discovery does not fall within Rule 26(b)(1)'s scope of relevance (as now amended) or that a discovery request would impose an undue burden or expense or is otherwise objectionable"); *Kinney v. Select Portfolio Servs.*, 2015 WL 7871044, at *2 (S.D. Tex. Dec. 3, 2015) ("The party resisting discovery has the burden of establishing lack of relevance by demonstrating that the requested information either does not

come within the broad scope of relevance or that the potential harm caused by discovery would outweigh the ordinary presumption in favor of broad disclosure."); *In re Wade*, 2012 WL 5449308, at *4 (Bankr. S.D. Tex. Nov. 7, 2012) (same).

21. "Where relevance is in doubt, the court should be permissive in allowing discovery." *Kinney*, 2015 WL 7871044, at *2. The trial court has "broad discretion" in determining whether to permit discovery. *McKinney/Pearl Rest. Partners, L.P. v. Metro. Life Ins. Co.*, 322 F.R.D. 235, 242 (N.D. Tex. 2016).

B. Daugherty Should Be Compelled to Produce the Requested Information

22. The Requested Information is within the broad scope of discovery under Rule 26(b)(1). The information sought in Requests 9 and 10 is plainly relevant here. As set forth above, Daugherty has admitted to secretly recording multiple conversations with Seery as his "adverse" party in the Bankruptcy Case and in connection with Daugherty's contingent Reserved Claim. Therefore, the Secret Recordings are ***directly relevant*** to the claims and defenses asserted in the Adversary Proceeding to the extent they concern (a) the negotiation of the Settlement Agreement that carved out Daugherty's contingent Reserved Claim for later resolution, (b) the status of the 2008 Audit and related matters, and (c) Daugherty's quest to expand his demand for HERA's and ERA's "books and records (spreadsheet) maintained on Highland's system."

23. Even if the information sought in Requests 9 and 10 does not directly concern these specific issues, the recordings are still relevant under Rule 26(b)(1) because they concern the litigants and implicate Daugherty's credibility. *See Ramos v. Capitan Corp.*, 2017 WL 1278737, at *3 (W.D. Tex. Feb. 2, 2017) ("Information relevant to a party's credibility may fall within Rule 26(b)'s scope.") (citing *Murillo*, 2016 WL 6139096, at *9). Daugherty admitted that he secretly recorded conversations he had with Seery without Seery's knowledge or consent, and that he

possesses such recordings. Daugherty also (falsely) contended that one of the Secret Recordings proved that Seery lied during a deposition given in the Stalking Suit.

24. Under the circumstances, Highland has the right to obtain all of Daugherty's Secret Recordings of Highland's representatives, including Seery, and to use this discovery to support its claims and refute Daugherty's defenses and counterclaims, including by impeaching Daugherty's credibility. Daugherty has no legitimate interest in continuing to conceal the Secret Recordings and should not be permitted to be the sole arbiter of what is "relevant."

CONCLUSION

WHEREFOR, Highland respectfully requests that the Court (a) grant the Motion and direct Daugherty to produce the Secret Recordings and all other information responsive to Requests 9 and 10, and (b) grant any other relief that the Court deems just and proper.

Dated: December 24, 2025

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that, on December 17, 2025, John Morris, counsel for Highland, communicated with Drew York, counsel for Daugherty, regarding the relief requested in the foregoing Motion. Daugherty is **OPPOSED** to the relief requested in the Motion.

/s/ Zachery Z. Annable
Zachery Z. Annable

CERTIFICATE OF SERVICE

I hereby certify that, on December 24, 2025, a true and correct copy of the foregoing Motion was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff/Counter-Defendant, v. PATRICK HAGAMAN DAUGHERTY, Defendant/Counter-Plaintiff.	§	Adv. Proc. No. 25-03055-bwo

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

ORDER GRANTING HIGHLAND CAPITAL MANAGEMENT, L.P.'S MOTION TO COMPEL PRODUCTION OF AUDIO RECORDINGS, TRANSCRIPTS, AND RELATED DOCUMENTS

Having considered (i) the *Motion to Compel Production of Audio Recordings, Transcripts and Related Documents* (the "Motion")[2] of Highland Capital Management, L.P. ("Highland"), plaintiff and counter-defendant in the above-captioned adversary proceeding (the "Adversary Proceeding"), (ii) the *Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* (the "Winograd Declaration") filed concurrently with the Motion, and (iii) any response of Patrick Daugherty ("Daugherty") in opposition to the Motion; and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) venue is proper in this district pursuant to 28 U.S.C. § 1409; (d) notice of the Motion was proper and sufficient under the circumstances and no further or additional notice need be given; and (e) the factual and legal bases set forth in the Motion and the Winograd Declaration establish sufficient cause for the relief granted in this Order. Accordingly, after due deliberation, **IT IS ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is **GRANTED** in its entirety.

2. Daugherty is to immediately produce to Highland the Secret Recordings and all other information responsive to Requests 9 and 10 of Highland's Requests dated October 24, 2025.

3. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

###End of Order###

[2] Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Motion.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	Adv. Proc. No. 25-03055-bwo
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

DECLARATION OF HAYLEY R. WINOGRAD IN SUPPORT OF HIGHLAND CAPITAL MANAGEMENT, L.P.'S MOTION TO COMPEL PRODUCTION OF AUDIO RECORDINGS, TRANSCRIPTS, AND RELATED DOCUMENTS

I, Hayley R. Winograd, pursuant to 28 U.S.C. § 1746, under penalty of perjury, declare as follows:

1. I am an attorney at the law firm of Pachulski, Stang, Ziehl & Jones LLP, counsel to Highland Capital Management, L.P. ("Highland" or the "Debtor," as applicable), plaintiff and counter-defendant in the above-captioned adversary proceeding (the "Adversary Proceeding"). I submit this declaration (the "Declaration") in support of *Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* (the "Motion") being filed concurrently with this Declaration. This Declaration is based on my personal knowledge and review of the documents listed below.

2. Attached as **Exhibit 1** is a true and correct copy of the *Defendant's Response to Plaintiff's Sixth Motion to Compel* and Exhibits A-C and G-J thereto filed on November 17, 2025 in the case captioned *Scott Byron Ellington v. Patrick Daugherty*, Cause No. DC-22-00304 pending in the 101st Judicial District Court of Dallas County, Texas (the "Stalking Suit").

3. Attached as **Exhibit 2** is a true and correct copy of excerpts from the transcript of Patrick Daugherty's ("Daugherty") deposition taken on August 28, 2025, in connection with the Stalking Suit.

4. Attached as **Exhibit 3** is a true and correct copy of *Plaintiff's Sixth Motion to Compel* and Exhibits F-G thereto filed on October 28, 2025, in the Stalking Suit.

5. Attached as **Exhibit 4** is a true and correct copy of *Highland Capital Management, L.P.'s Requests for the Production of Documents Directed to Patrick Daugherty* dated October 24, 2025, served by Highland in the Adversary Proceeding.

6. Attached as **Exhibit 5** is a true and correct copy of *Patrick Daugherty's Amended Responses to Highland Capital Management, L.P.'s Requests for the Production of Documents* dated December 12, 2025, served by Daugherty in the Adversary Proceeding.

Dated: December 24, 2025

/s/ Hayley R. Winograd
Hayley R. Winograd

CERTIFICATE OF SERVICE

I hereby certify that, on December 24, 2025, a true and correct copy of the foregoing Declaration was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

EXHIBIT 1

FILED
11/17/2025 4:20 PM
FELICIA PITRE
DISTRICT CLERK
DALLAS CO., TEXAS
Marissa Gomez DEPUTY

CAUSE NO. DC 22-00304

SCOTT BYRON ELLINGTON	§	**IN THE DISTRICT COURT**
	§	
Plaintiff,	§	
	§	
v.	§	**101st JUDICIAL DISTRICT**
	§	
PATRICK DAUGHERTY	§	
	§	
Defendant.	§	**DALLAS COUNTY, TEXAS**

DEFENDANT'S RESPONSE TO PLAINTIFF'S SIXTH MOTION TO COMPEL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Patrick Daugherty ("Daugherty") files this Response ("Response") to Plaintiff Scott Byron Ellington's ("Ellington") Sixth Motion to Compel (the "Motion") and respectfully shows the Court as follows:

I. INTRODUCTION

1. To date, Daugherty has produced fifty-three-thousand-one-hundred-four (53,104) pictures, documents, communications, records, and other items of information in this litigation. The vast majority of which have nothing to do with Ellington's spurious claims for Stalking and Invasion of Privacy by Intrusion. Still, Daugherty produced it all in compliance with his discovery obligations under the Rules and this Court's orders compelling the same.

2. On August 28, 2025, Daugherty supplemented his production with a recording (sequentially marked "DEF053104") of a discussion with a non-party, James Seery ("Seery"), that predominantly concerns matters in a bankruptcy proceeding in the Northern District of Texas and other litigation (the "Recording"). Daugherty produced the Recording after its review in connection with proceedings before the Bankruptcy Court late this summer. He produced it because it included a minor discussion of Ellington's allegations in this lawsuit. The Recording

was created well after Daugherty's investigation of Ellington concluded and involved no information relevant to this dispute beyond Ellington's allegations and the scope of Daugherty's actions of which Ellington has long been aware. Furthermore, the Recording is cumulative and duplicative of the 53,103 pages of information Ellington had in his possession before August 28, 2025.

3. Ellington has been aware for years that Daugherty communicated with Seery about Ellington.[1] The Recording provides no new insight into that fact, this case, or any claim or defense in this litigation. Nevertheless, Daugherty produced the Recording to Ellington because of the minor discussion about Ellington's allegations in this lawsuit. Ellington now seeks to punish Daugherty for doing so. Indeed, Ellington has proven with his onerous discovery practice of both Daugherty and non-parties that he cannot be satisfied. Now he wants Daugherty to do something that is impossible: produce non-existent recordings that are either (1) about any Ellington Party, Location or Recording, or (2) that are responsive to certain Requests for Production. This is something Daugherty cannot do since they do not exist. *See* Motion at Ex. G at 105:12-20.[2] Therefore, Daugherty respectfully requests the Court deny Ellington's Motion in its entirety.

II. RELEVANT FACTUAL BACKGROUND

4. Daugherty has testified—three times now—that his physical investigation into Ellington, which gave rise to Ellington's specious claims, began in January 2021 after he learned at a hearing in another proceeding that Ellington destroyed his cell phone during the pendency of other litigation between the parties. *See e.g.*, Ex. A (2022.09.01 Temp. Inj. Trans.) at 70:1-5; Ex.

[1]At a minimum, Ellington has been aware of Daugherty's communications with Seery since July 2022. *See* Exhibit K at 60:8-61:2 (Daugherty's Deposition, dated July 2022) ("Q: To whom did you provide these emails and compilations? [Daugherty]: […] And then to Jim Seery, who is the CEO of Highland.").

[2] (Daugherty's Deposition, dated August 28, 2025)("…Q: Are there any other recordings that you have between you and Mr. Seery? [Daugherty]: Yes. … Q: Do any of them involve Mr. Ellington? [Daugherty]: No.")(cleaned up, objections omitted).

K at 57:4-61:18. Daugherty's investigation ended in December of 2021. Ex. A at 42:2-5 (G. Brandstatter Testimony), 119:9-121:3 (Daugherty Testimony).

5. On January 11, 2022, Ellington filed his Original Petition, Application for Temporary Restraining Order, Temporary Injunction on January 11, 2022. Ellington asserted two causes of action: (1) Stalking under the Tex. Civ. Prac. & Rem. Code § 85.002, and (2) Invasion of Privacy by Intrusion.

6. In August 2022, Daugherty produced nearly 18,000 pages of documents. Ex. B. That production included documents, photos, communications, and text messages that Daugherty exchanged with others during his investigation, including exchanges with Seery. Ellington also issued roughly 20 subpoenas duces tecum, the bulk of which were issued in fall of 2022, to various non-parties that he believed would produce evidence to support his baseless claims. Despite the extremely broad nature of those requests, the non-parties responses to those requests effectively mirrored Daugherty's August 2022 production.

7. Nevertheless, in August 2023, Ellington filed his fourth motion to compel seeking additional text messages Daugherty exchanged with Seery that far exceeded the scope of relevant discovery in this dispute. In reviewing that motion and exhibits, Daugherty identified one additional relevant and responsive text message not previously produced and provided a supplemental production of the text, sequentially labeled DEF018015, on August 31, 2023. Ex. C. On September 1, 2023, after a hearing on the same, the Court granted Plaintiff's Fourt Motion to Compel but appropriately limited the order's scope to texts regarding Ellington and "the stalking issues." Ex. D. Given his voluminous prior productions and the August 31 supplemental production, Daugherty had no additional texts to produce in response to the Court's order.

8. On March 19, 2025, the Court issued orders on six motions between the parties that had been pending before the Court for some time, which granted and denied various relief to both

sides. In response, Daugherty produced an additional 30,000+ pages of documents and communications, along with reproductions of his prior 18,000+ pages of documents for Plaintiff's convenience. Ex. E (production links redacted).

9. In August and September 2025, non-parties Marcia Maslow (August 27) and Stephanie Archer (August 29), and parties Daugherty (August 28) and Ellington (September 8)[3] sat for court-ordered second depositions. On August 27, the morning of her deposition, Maslow produced over 50 pages of text messages. Ex. G. Indeed, Daugherty and Maslow both provided supplemental productions the morning of their depositions—Daugherty produced the Recording on August 28.

10. On October 28, Ellington filed his Sixth Motion to Compel seeking unwarranted relief, and Daugherty respectfully requests the Court deny the same.

III. STANDARD

11. Though the scope of discovery is broad, it has boundaries. It is limited by legitimate interests in avoiding overly broad requests. *In re Nat'l Lloyds Life Ins. Co.*, 449 S.W.3d 486, 488 (Tex. 2014) (orig. proceeding) (per curiam); *Axelson, Inc. v. McIlhany*, 798 S.W.2d 550, 553 (Tex. 1990) (orig. proceeding).

12. Irrelevant information is not discoverable. *See* Tex. Rule of Civ. P. 192.3(a); *see also In re Nat'l Lloyds Life Ins. Co.*, 532 S.W.3d 794, 816 (Tex. 2017) (orig. proceeding) (per curiam) (holding documents that are "irrelevant … [are] not discoverable"); *In re Union Pac. Res. Co.*, 22 S.W3d 338, 341 (Tex. 1999) (orig. proceeding) (per curiam) (holding that information was irrelevant, and therefore not discoverable); *In re Sun Coast Resources, Inc.*, 562 S.W.3d 138, 150

[3]Notably, on September 9, 2025, Daugherty filed a Motion for Sanctions against Ellington for his failure to appear for deposition before August 29, 2025, despite a Court order and Rule 11 agreement among counsel for the same. Ex. F.

(Tex. App.—Houston [14th Dist.] 2018, no pet.) (overturning portion of trial court's order for production of documents that were irrelevant).

13. As such, discovery requests "must be reasonably tailored to include only matters relevant to the case." *In re Jay Mgmt. Co., LLC*, Cause No. 09-19000159-CV, 2019 WL 3720102, at *4 (Tex. App.—Beaumont Aug. 8, 2019, no pet. h.) (quoting *In re Alford Chevrolet-Geo*, 997 S.W.2d 173, 180 (Tex. 1999) (orig. proceeding)); *see also In re Nat'l Lloyds*, 449 S.W.3d at 488 (same). A discovery request or order is "overbroad if it could have been more narrowly tailored to avoid including superfluous information." *In re Toyota Motor Sales, U.S.A., Inc.*, Cause No. 05-18-007340-CV, 2018 WL 3484280, at *2 (Tex. App.—Dallas July 19, 2018, no pet.) (quoting *In re CSX Corp.*, 124 S.W.3d 149, 153 (Tex. 2003) (orig. proceeding) (per curiam)).

14. "Overbroad requests for irrelevant information are improper whether they are burdensome or not[.]" *In re Jay*, 2019 WL 3720102, at *4 (quoting *In re Allstate Cty. Mut. Ins. Co.*, 227 S.W.3d 667, 670 (Tex. 2007) (orig. proceeding)); *In re Nat'l Lloyds*, 449 S.W.3d at 488. And a "discovery order that compels production beyond the rules of procedure is an abuse of discretion for which mandamus is the proper remedy." *Id.* (citing *In re Deere & Co.*, 299 S.W.3d 819, 820 (Tex. 2009) (orig. proceeding) (per curiam)).

15. Crucially, "[l]imits on time and location will not render irrelevant information discoverable." *In re Jay*, 2019 WL 3720102, at *4 (citing *In re Nat'l Lloyds Ins. Co.*, 449 S.W.3d at 488-89).

IV. ARGUMENT AND AUTHORITIES

A. DAUGHERTY PRODUCED THE RECORDING.

16. On August 28, 2025, Daugherty produced the Recording before beginning his deposition. Importantly, just the day before, Marcia Maslow (who is represented by Ellington's counsel) produced over 50 pages of text messages as her deposition began. Ex. G. The text messages were exchanges between Marcia Maslow and Gregory Brandstatter, both of whom are represented by Ellington's counsel, and both of whom are under a Court order, and have been for some time (circa 2022), to produce all responsive documents to non-party subpoenas issued to them seeking communications about Daugherty. *See e.g.*, Ex. H, I, and J.

17. Daugherty produced the Recording after receiving Maslow's supplemental production the day before and considering whether any additional information needed to be produced in accordance with his discovery obligations. *See* Ex. G. It was determined by Daugherty and his Counsel that the Recording should be produced after it had recently percolated up for review and discussion in connection with unrelated proceedings before the Bankruptcy Court of the Northern District of Texas, where Daugherty is now adverse to Seery and Highland Capital Management, L.P. (reorganized debtor) in connection with Daugherty's proof of claim.

B. THE RECORDING IS DATED AFTER THE CONCLUSION OF DAUGHERTY'S INVESTIGATION.

18. Daugherty produced the recording because it references "Ellington," but the Recording (dated May 2022) came six months after the conclusion of Daugherty's investigation giving rise to this litigation (December 2021). Substantively, it merely concerns the content of this proceeding, Ellington's bad acts in other forums, and unrelated matters before the Bankruptcy Court. See Def's Motion at Ex. F. The Recording does not comprise a part of Daugherty's investigation, which ended in December 2021. See Ex. A at 42:2-5 (G. Brandstatter Testimony), 119:9-121:3 (Daugherty Testimony). Additionally, the Recording merely includes discussion

between Daugherty and Seery that is detailed ad nauseum in the 50,000+ pages of production, and hours upon hours of testimony that Ellington has from Daugherty, Seery, and others in this proceeding. *Compare e.g.*, Ex. A at 97:14-23, 110:4 – 113:19 (Daugherty Testimony) *with* Motion at Ex. F (Recording Transcript). Even so, cumulative or not, in accordance with the Rules and this Court's orders, Daugherty produced the Recording when its responsiveness became apparent after review and discussion concerning Seery's testimony in light of separate bankruptcy proceedings.

C. DAUGHERTY HAS AND CONTINUES TO COMPLY WITH HIS DISCOVERY OBLIGATIONS.

19. The mere fact that Daugherty produced the recording is evidence of his continued compliance with his discovery obligations in this proceeding. Daugherty produced over 18,000 pages of documents in August 2022. Ex. B. Daugherty supplemented text messages with Seery. Ex. C. Daugherty produced an additional 30,000+ pages of documents that merely reference "Ellington" in response to this Court's March 2025 orders despite their general lack of relevance to the claims and defenses in this litigation. Ex. E. Despite it all, Ellington's oppressive discovery practice continues with this most recent Motion seeking to further punish Daugherty's compliance with the Rules and this Court's orders.

20. Simply put, despite a mountain of production from Daugherty, over 20 non-party subpoenas duces tecum and responses, and hours upon hours of deposition testimony from non-parties for a dispute that is, by its very nature, between Ellington and Daugherty alone—Ellington incessantly demands more. Daugherty produced the Recording precisely because of his obligation under the Rules and this Court's orders. There are no other recordings that are otherwise responsive to Ellington's Requests for Production. Motion at Ex. G at 105:12-20. Enough is enough. Ellington's Motion is unwarranted and should be denied.

PRAYER

WHEREFORE PREMISES CONSIDERED, Defendant Patrick Daugherty prays the Court denies Plaintiff's Sixth Motion to Compel in its entirety, and for all further relief, at law or in equity, the Court deems necessary.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

RUTH ANN DANIELS
State Bar No. 15109200
rdaniels@grayreed.com
ANDREW K. YORK
State Bar No. 24051554
dyork@grayreed.com
DRAKE M. RAYSHELL
State Bar No. 24118507
drayshell@grayreed.com

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

ATTORNEYS FOR PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was duly furnished to the following counsel of record (1) through the electronic filing manager (www.efiletexas.gov), and/or (2) via e-mail on this 17th day of November 2025:

Julie Pettit
jpettit@pettitfirm.com
THE PETTIT LAW FIRM
2101 Cedar Springs, Suite 1540
Dallas, Texas 75201

Michael K. Hurst
mhurst@lynnllp.com
Mary Goodrich Nix
mnix@lynnllp.com
LYNN PINKER HURST & SCHWEGMANN, LLP
2100 Ross Avenue, Suite 2700
Dallas, Texas 75201

ATTORNEYS FOR PLAINTIFF

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT A

REPORTER'S RECORD
VOLUME 1 OF 1
TRIAL COURT CAUSE NO. DC-22-00304

SCOTT BYRON ELLINGTON	)	IN THE DISTRICT COURT
	)	
Plaintiff,	)	
	)	
VS.	)	DALLAS COUNTY, TEXAS
	)	
PATRICK DAUGHERTY,	)	
	)	
Defendant.	)	101ST DISTRICT COURT

TEMPORARY INJUNCTION

which was heard on

THURSDAY, SEPTEMBER 1, 2022

On the 1st of September, 2022, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable STACI WILLIAMS, Judge Presiding, held in Dallas, Dallas County, Texas.

Proceedings reported by machine shorthand utilizing computer-assisted realtime transcription. Proceedings had via Zoom videoconference.

APPEARANCES:

Michael K. Hurst
State Bar No. 10316310
mhurst@lynnllp.com
Nathaniel A. Plemons
State Bar No. 24121059
nplemons@lynnllp.com
Michelle Naudin
State Bar No. 24118988
LYNN PINKER HURST SCHWEGMANN, LLP
2100 Ross Avenue, Suite 2700
Dallas, Texas 75201
Telephone: (214) 981-3800
Facsimile: (214) 981 -3839

Julie Pettit
State Bar No. 24065971
Jpettit@pettitfirm.com
THE PETTIT LAW FIRM
2101 Cedar Springs, Suite 1540
Dallas, Texas 75201
Telephone: (214) 329-0151
Facsimile: (214) 329-4076
ATTORNEYS FOR PLAINTIFF

ANDREW K. YORK
State Bar No. 24051554
dyork@grayreed.com
DRAKE M. RAYSHELL
State Bar No. 24118507
dravshe11@gravreed.com
RUTH ANN DANIELS
State Bar No. 15109200
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
ATTORNEYS FOR PATRICK DAUGHERTY

PLAINTIFF'S WITNESS LIST

GREG BRANDSTATTER

Direct examination by Ms. Pettit....28
Cross-examination by Mr. York.....44

PATRICK DAUGHERTY

Direct examination by Mr. Hurst.....66
Cross-examination by Ms. Daniels....102
Redirect examination by Mr. Hurst...122

SCOTT ELLINGTON

Direct examination by Mr. Hurst.....123
Cross-examination by Ms. Daniels....128
Redirect examination by Mr. Hurst...156
Further cross-examination by Ms. Daniels.....157
Further re-direct examination by Mr. Hurst.....159

A. Yes.
Q. Looking at the meta data in this Exhibit 20, what is the most recent time that you have a record of Mr. Daugherty making a pass by an Ellington property?
A. December 11th, 2021.
Q. Are you seeing that in line 229?
A. And 230.
Q. Okay, 229 and 230.
A. Yes.
Q. Mr. Brandstatter, based on your experience, what is your opinion about Mr. Daugherty's drive-bys of the Ellington properties?
A. It's not that he'd be stalking Mr. Ellington and then he's conducting surveillance. It's a pre-attack indicator. I think he's conducting surveillance in succession of an attack. It's a precursor to a violent crime.
Q. When you say pre-attack surveillance, what do you mean by that?
A. It goes back to the attack cycle again where the person picks the target. Mr. Daugherty already did that. And then the first thing an attacker does or a terrorist does is conduct surveillance. They make their plan from surveillance. They rehearse their plan, and then they'll execute their plan and have an escape

A. Yeah, I have no idea whose car that is.
Q. And that's appropriate behavior in your mind, correct?
A. Yeah, I don't think there's anything wrong with that.
Q. It's kind of defiant, isn't it?
A. No, it's just taking a picture of a car.
Q. And this is part of your so-called investigation; is that right?
A. Yeah, I mean, I would call it part of the investigation that didn't lead anywhere.
Q. Okay. Self-help investigation?
A. I'm sorry, you broke up on me.
Q. I apologize. Self-help investigation; is that right?
A. Not sure what you mean by that, but I conducted an investigation that included the research of cars, license plates, the human beings associated therewith that, as I told you before, I cross referenced that to other business entities, et cetera, that got cross referenced to other business entities in the Cayman Islands, Bermuda, et cetera, where assets had been transferred.
Q. Okay. Would you call this vigilanteism?
A. No.

A. Just so I could either take a picture or understand what was going on or see if there was a new car that I didn't recognize before.

Q. Were you driving by these properties with the intention of taking pictures of people?

A. No.

Q. Now, there's been some testimony that you took a picture of Mr. Ellington?

A. That is correct.

Q. How many pictures of Mr. Ellington through the course of your investigation over this approximately eight months or so, how many pictures of Mr. Ellington did you take?

A. One.

Q. And that's the one we've heard about, correct?

A. Correct.

Q. Now, did you take a picture of anybody else associated with Mr. Ellington?

A. Yes.

Q. Okay. Who was that of?

A. As I mentioned, that picture was Mr. Ellington, and it had Trevor Smith in it. So that was the same picture.

Q. That's the same picture. Any other pictures of anybody else?

A. His girlfriend/fiance.
Q. All right. Who's that?
A. Stephanie Archer.
Q. How did you come to take Stephanie Archer's picture?
A. The first time I took her picture she had chased, if not followed, me or followed, if not chased, me around the corner of some street that I can't remember the name of -- Levy. Levy. And I had tried --
Q. You told us about that. Is that when you took a picture of her when she was in her car?
A. Yes. I was taking a picture of her, and she was taking a picture of me. I was in the parking lot, and she was in the street.
Q. She was in her car?
A. She was in her car.
Q. And you were in your car?
A. That is correct.
Q. Other than that picture of Ms. Archer, did you take any other pictures of his girlfriend or fiance, Stephanie Archer?
A. There's only one occasion when she was up the ramp in the warehouse.
Q. Tell me about that.
A. I had driven by, and I had slowed down to take

pictures of the car. She was standing quite a distance away, and she said and then there's this guy. She said who are you? And I said I'm Pat. She goes Matt, what are you doing? I said I'm taking pictures, and I just drove off.

Q. Okay. You took her picture on that occasion?

A. I did.

Q. Okay. So other than those pictures you described of Ms. Archer, one in her car and one on the ramp of the warehouse, the picture of Ellington that you talked about in his front yard, did you take any other pictures of people associated with Mr. Ellington in these eight months?

A. The woman that was his former secretary dropping off documents.

Q. Tell us about that.

A. Sarah Bell-Goldsmith. That was, I don't know, in January/February 2021. I took, I guess, a couple pictures of her.

Q. Did you have any dialogue with her at that time?

A. Briefly.

Q. Tell me what was said between the two of you.

A. I asked her if Scott was back yet, and she said she didn't know. She was just moving these

documents because he'd asked her to.

Q. Is that the extent of every word you can recall that was said between you and Ms. Bell?

A. Pretty much.

Q. Have you told us every word that you can recall was said between you and Ms. Archer?

A. Yes.

Q. Other than those words you exchanged with the assistant, Sarah Bell, and Stephanie Archer, did you ever talk to or have a conversation with anybody else in the course of this investigation where you're taking pictures?

A. Not that I can recall.

Q. So only two times were any words exchanged at all between you and someone else in connection with this investigation?

A. Just the two examples that I mentioned.

Q. Did you ever at anytime have words or talk to Mr. Ellington at all?

A. No.

Q. When's the last time you and Mr. Ellington even spoke to each other?

A. We were going up an elevator, and the Judge may not want to hear this, but there was another bankruptcy of another Highland entity called Aces and we

Q. Are they motion activated?

A. From what I understand.

Q. And do you know if that's when they obtained information about times that you would go by there when they would go through all those videos in those animal cameras and see if they could see you or your car? Do you know if that's how that worked?

A. Yeah, from what I understand.

Q. Now, in November/December 2021, did you stop driving by these Ellington locations we've identified and taking pictures?

A. Yes.

Q. Why?

A. My settlement with Highland had been pretty much finalized in November, and I think it was publicized in December, and I felt like I'd gotten all the information that I could have gotten from those cars. I know the judge doesn't want me to go into details, but we found a lot of missing assets in the entities in the Cayman Islands. I'll put it that way.

Q. So you stopped why?

A. Because I felt like the task was complete at least from my end. I'd gotten all the information I was going to need.

Q. Did you stop weeks or even months before this

lawsuit was filed against you?

A. Yes.

Q. And since the lawsuit's been filed, have you driven by, taken any pictures, taken any observations of these properties since that time?

A. No.

Q. Why?

A. I guess the task was completed and that part of the investigation, from my perspective, was through.

Q. The lawsuit was filed January 11th, and on January 12th the Court entered a Temporary Restraining Order against you, correct?

A. Yes.

Q. And by the terms of that order it was in effect for some period of time, and I think the parties had an extension. So let's just say the next month or two months or three months you certainly would have been subject to a restraining order in connection with your conduct, correct?

A. I think it was two weeks, but, yes.

Q. But at some pint the restraining order expired and has not been in existence for months and months, correct?

A. Correct.

Q. Although it has not been in existence, have

you taken any action to drive by, take pictures or make observations of the Ellington properties?

A. No.

Q. After Mr. Ellington filed his lawsuit on January 11th of this year, 2022, did he then file an objection to your settlement with Highland in the bankruptcy case and refer to that lawsuit and the fact that you had been stalking --

MR. HURST: Excuse me. Objection, relevance. Objection, leading.

THE COURT: I'll sustain it. Guys, I've been very liberal with my time. It's going on 5:00 o'clock, and, frankly, I've probably heard ten minutes worth of testimony that would assist me in reaching the decision. The other stuff is interesting, but I've got some five inch notebooks over here of interesting cases that I need to prep for tomorrow, so if we could really just kind of get to the chase. Like I said, it's very interesting, but just time-wise I'm not sure we're really using the Court's time as efficiently as it could be.

MS. DANIELS: Your Honor, I think I'm about finished up with everything I needed to establish with Mr. Daugherty. Let me check my notes real quick.

I'll pass the witness, Your Honor.

STATE OF TEXAS)

COUNTY OF DALLAS)

I, Terri Etekochay, Official Court Reporter in and for the 101st District Court of Dallas County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested orally by counsel for the parties to be included in this volume of the Reporter's Record in the above-styled and numbered cause, all of which occurred in open court and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, offered by the respective parties.

WITNESS MY HAND this 22nd day of September, 2022.

T. Etekochay

Terri Etekochay, Texas CSR #8283
Certificate Expires: 1-31-2023
Email: terri.etekochay@dallascounty.org
Official Reporter, 101st District Court
George Allen Sr. Courts Building
600 Commerce Street, 6th Floor
Dallas, Texas 75202-4631

EXHIBIT B

From:	Laura DeBerg
To:	MHurst@lynnllp.com; mnix@lynnllp.com; BCongdon@lynnllp.com; jpettit@pettitfirm.com; pperkins@pettitfirm.com
Cc:	Drake Rayshell; Ruth Ann Daniels; Drew K. York; Monica Flores-Moreno; Suzy Langley
Subject:	Ellington v. Daugherty; DC-22-00304
Date:	Monday, August 29, 2022 6:33:26 PM
Attachments:	2022.08.29 Defendant"s First Supplemental Responses to Rogs.pdf

Dear Counsel:

Attached please find a courtesy copy of Defendant's First Supplemental Responses to Plaintiff's First Set of Interrogatories, a copy of same has also been EServed. Below please find a link for Defendant's supplemental production bate labeled DEF000265 – DEF018014. If you have any trouble accessing this link please let me know.

Thank you

Laura

Laura DeBerg
Paralegal
Tel 469.320.6060 | Fax 469.320.6858 | ldeberg@grayreed.com
1601 Elm St., Suite 4600 | Dallas, TX 75201
grayreed.com | Connect with me on LinkedIn

GRAY REED

CONFIDENTIALITY NOTICE: This electronic transmission and any attachments constitute confidential information which is intended only for the named recipient(s) and may be legally privileged. If you have received this communication in error, please contact the sender immediately. Any disclosure, copying, distribution or the taking of any action concerning the contents of this communication by anyone other than the named recipient(s) is strictly prohibited.

EXHIBIT C

From: Laura DeBerg
To: Julie Pettit
Cc: Michael K. Hurst; Michele Naudin; durteago@pettitfirm.com; Drew K. York; Drake Rayshell
Subject: Ellington v. Daugherty; DC-22-00304
Date: Thursday, August 31, 2023 4:59:32 PM
Attachments: 2023.08.31 Ltr to OC re Supplemental Production.pdf

Dear Counsel,

Attached please find a letter from Mr. Rayshell in the above matter. Also, below please find a link for the corresponding document bate labeled DEF 018015. If you have any trouble accessing this document please let me know.

Thank you

Laura

[redacted]

Laura DeBerg
Paralegal
Tel 469.320.6060 | Fax 469.320.6858 | ldeberg@grayreed.com
1601 Elm St., Suite 4600 | Dallas, TX 75201
grayreed.com | Connect with me on LinkedIn

GRAY REED

CONFIDENTIALITY NOTICE: This electronic transmission and any attachments constitute confidential information which is intended only for the named recipient(s) and may be legally privileged. If you have received this communication in error, please contact the sender immediately. Any disclosure, copying, distribution or the taking of any action concerning the contents of this communication by anyone other than the named recipient(s) is strictly prohibited.

EXHIBIT G

CAUSE NO. DC-22-00304

SCOTT BYRON ELLINGTON	)	IN THE DISTRICT COURT
	)	
versus	)	101ST JUDICIAL DISTRICT
	)	
PATRICK DAUGHERTY	)	DALLAS COUNTY, TEXAS

****

ORAL AND VIDEOTAPED DEPOSITION

MARCIA MASLOW

AUGUST 27, 2025

****

V O L U M E II

ANSWERS AND ORAL VIDEOTAPED DEPOSITION OF MARCIA MASLOW, a witness produced at the instance of the Defendant, was taken in the above-styled and numbered cause on the 27TH day of AUGUST 2025, from 11:25 a.m. to 12:10 p.m., before VANESSA S. ROBERTSON, CSR in and for the State of Texas, reported by machine shorthand, at the offices of Lynn, Pinker, Hurst & Schwegmann, 2100 Ross Avenue, Suite 2700, Dallas, Texas, pursuant to the Texas Rules of Civil Procedure.

Page 2

APPEARANCES

FOR THE PLAINTIFF:

MR. MICHAEL HURST
LYNN PINKER HURST & SCHWEGMANN, LLP
2100 ROSS AVENUE
SUITE 2700
DALLAS, TEXAS 75201
(214) 981-3800
mhurst@lynnllp.com

FOR THE PLAINTIFF:

MS. JULIE PETTIT
THE PETTIT LAW FIRM
1900 PEARL STREET
SUITE 1740
DALLAS, TEXAS 75201
(214) 329-0151
jpettit@pettitfirm.com

FOR THE DEFENDANT:

MR. ANDREW YORK
GRAY REED
1601 ELM STREET
SUITE 4600
DALLAS, TEXAS 75201
(214) 954-4135
dyork@grayreed.com

ALSO PRESENT:
MR. GREGORY LEE, VIDEOGRAPHER
MR. PATRICK DAUGHERTY
MR. MAX CHORIEV, SECURITY

Page 3

TABLE OF CONTENTS

	PAGE
APPEARANCES	2
MARCIA MASLOW	
EXAMINATION BY MR. YORK	5
SIGNATURE AND CHANGES	43
REPORTER'S CERTIFICATE	45

* * *

EXHIBITS

DESCRIPTION	PAGE
Exhibit 1 Text Messages	7

Page 4

PROCEEDINGS

THE VIDEOGRAPHER: Good morning. This is the video recorded proceeding of witness Marcia Maslow, taken by counsel for the defendant, Patrick Daugherty, in the matter of Scott Byron Ellington versus Patrick Daugherty, filed in the District Court, the 101st Judicial District, Dallas County, Texas. This proceeding is being held at 2100 Ross Avenue, Suite 2700, Dallas, Texas 75201.

My name is Gregory Lee. I am the videographer on behalf U.S. Legal Support located at 16825 North Drive [sic], Suite 900, Houston, Texas 77060. I am not related to any party in the action nor am I financially interested in the outcome. The court reporter is Vanessa Robertson, also here on behalf of U.S. Legal Support.

Counsel will state their appearance for the record, after which, the court reporter will enter the statement for the proceedings into the record and swear in the witness.

MR. YORK: Drew York on behalf of the defendant, Patrick Daugherty.

MS. PETTIT: Julie Pettit for the plaintiff.

MR. HURST: Michael Hurst here on

Page 5

behalf of Scott Ellington, the plaintiff.

MARCIA MASLOW,

having being first duly sworn, testified as follows:

MR. HURST: That is Max, he's security.

MR. YORK: Security?

MR. HURST: Yes.

MR. YORK: Okay.

* * * EXAMINATION * * *

BY MR. YORK:

Q Ms. Maslow, my name is Drew York, I represent Mr. Daugherty. You understand you're ordered to appear for a second deposition in this case?

A Yes.

Q You understand you're still under oath?

A Yes.

Q This gentleman Max that's here, is he your personal security?

A No.

Q No? Who is he security for, do you know?

A I'd asked to have security here today.

Q You asked to have security here today --

A Yes, I did.

Q -- in the deposition?

A Yes.

Page 6

Q You requested that of Mr. Hurst and Ms. Pettit?
A Yes.
Q Okay. Why did you do that?
A Because I don't feel safe being in a room with someone that is accused of stalking me.
Q All right. You didn't bring your husband down here today with you?
A No.
Q All right. You gave a deposition in this case back in July of 2023, correct?
A Yes.
Q And is there anything from your prior testimony you wish to change today?
A No.
Q All right. Since your deposition, have you provided any documents to Mr. Hurst or Ms. Pettit?
A I provided text messages this morning.
Q This morning?
A Yes.
Q Did you -- did they bring them with them to the deposition?
MS. PETTIT: They're being printed now. We'll have them shortly.
MR. YORK: Okay. Why don't we take

Page 7

a break and let me see them and then we can go back on the record, make it more efficient.
THE VIDEOGRAPHER: We are going off the record. The time is 11:27 a.m.
(A recess was taken from 11:27 to 11:33.)
(Exhibit No. 1 was marked.)
THE VIDEOGRAPHER: We're going back on the record. The time 11:33 a.m.
Q (By Mr. York) All right. Ms. Maslow, before we went off the record, you mentioned that you provided text messages to Mr. Hurst and Ms. Pettit that you brought with you today. I've marked what your counsel handed to me at the break as Exhibit 1. It's Bates stamped Maslow 2 through 53.
Is this a copy of the text messages that you provided to Mr. Hurst and Ms. Pettit?
A Yes, it seems to be.
Q When did you provide them to your counsel?
A I don't know the exact time. I sent them this morning.
Q You sent them this morning?
A Yes.
Q How did you send them to your counsel?
A I E-mailed them.
Q Okay. So these were not actually -- did

Page 8

you -- did you take screenshots and send them the screenshots?
A Yes.
Q All right. So you didn't provide your phone and have it imaged, correct?
A Correct.
Q Okay. And had you been asked at any point since your deposition in July of 2023 by your counsel to provide any -- and supplement your production in response to the subpoena you were previously served with?
A Yes.
Q Okay. And you -- am I correct that Exhibit 1 that we have here includes text messages from June of 2023 through last Thursday, is that correct, with Mr. Brandstatter?
A Correct.
Q And just to be clear, since your deposition on July 11th of 2023 until today, you had not supplemented to your counsel any of these text messages that are marked in Exhibit 1; is that correct?
A Correct.
Q Now, other than these text messages, have you had any other written communications with Mr. Brandstatter since your deposition?

Page 9

A No.
Q No E-mails?
A No.
Q All right. Are you paying Mr. Brandstatter to continue to place the cameras around your house and obtain the footage off of them?
A No.
Q Is Mr. Brandstatter, to your knowledge, still being paid by your brother Scott Ellington for that service?
A I don't know how he's paid.
Q You don't know?
A No.
Q Okay. Is he doing it for free as far as you know?
A I don't know.
Q All right. Since your last deposition in July of 2023, have you taken any notes relating to the issues in this case?
A No.
Q Okay. Other than the text messages with Mr. Brandstatter, have you had any text messages with your brother about the issues in this lawsuit since your deposition?
A No.

(Deposition concluded at 12:10 p.m.)

CHANGES AND SIGNATURE

WITNESS NAME: MARCIA MASLOW

DATE OF DEPOSITION: AUGUST 27, 2025

PAGE	LINE	CHANGE	REASON

I, MARCIA MASLOW, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above:

_____
MARCIA MASLOW

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day personally appeared MARCIA MASLOW, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 20__.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____

CAUSE NO. DC-22-00304

SCOTT BYRON ELLINGTON	)	IN THE DISTRICT COURT
	)	
	)	
versus	)	101ST JUDICIAL DISTRICT
	)	
	)	
PATRICK DAUGHERTY	)	DALLAS COUNTY, TEXAS

REPORTER'S CERTIFICATION
DEPOSITION OF MARCIA MASLOW
AUGUST 27, 2025

I, VANESSA S. ROBERTSON, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, MARCIA MASLOW, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on _____, 2025 to MS. JULIE PETTIT for examination, signature and return to me by _____, 2025.

That the amount of time used by each party at the deposition is as follows:

Page 46

MR. ANDREW YORK - 35 minutes

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes counsel for all parties of record:

MR. MICHAEL HURST, Attorney for Plaintiff.

MR. ANDREW YORK, Attorney for Defendant.

MS. JULIE PETTIT, Attorney for Plaintiff.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Further certification requirements pursuant to Rule 203 of TRCP will be certified to after they have occurred.

Page 47

Certified to by me this _____ day of _____, A.D., 2025.

Vanessa S. Robertson

VANESSA S. ROBERTSON
TEXAS CSR 4930
EXPIRATION Date: 04/30/2026
FIRM REGISTRATION No. 112
U.S. LEGAL SUPPORT
16285 NORTHCHASE DRIVE
SUITE 900
HOUSTON, TEXAS 77060
(713) 653-7100

Page 48

FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not returned to the deposition officer on _____;

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to MR. ANDREW YORK, Custodial Attorney;

That $_____ is the deposition officer's charges to the Defendant for preparing the original deposition transcript and any copies of exhibits.

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein on and filed with the Clerk.

Certified to by me this _____ day of _____, 2025.

_____

VANESSA S. ROBERTSON
TEXAS CSR 4930
EXPIRATION DATE: 04/30/2026
FIRM REGISTRATION No. 112
U.S. LEGAL SUPPORT
16285 NORTHCHASE DRIVE
SUITE 900
HOUSTON, TEXAS 77060
(713) 653-7100

EXHIBIT H

CAUSE NO. DC 22-00304

SCOTT BYRON ELLINGTON,	§	**IN THE DISTRICT COURT**
	§	
Plaintiff,	§	
	§	
v.	§	**101st JUDICIAL DISTRICT**
	§	
PATRICK DAUGHERTY,	§	
	§	
Defendant.	§	**DALLAS COUNTY, TEXAS**

ORDER DENYING PLAINTIFF'S MOTION TO QUASH AND MOTION FOR PROTECTION

On this day, the Court considered Plaintiff Scott Byron Ellington's Motion to Quash and Motion for Protection from Notices of Deposition for Reese Morgan, Byron Ellington, Marcia Maslow, Stephanie Archer, and Greg Brandstatter (the "Motion"), Defendant's Response to the same, other materials in the record of this case, and any argument of counsel. The Court finds that (1) Plaintiff identified Reese Morgan, Byron Ellington, Marcia Maslow, Stephanie Archer, and Greg Brandstatter (the "Subpoenaed Non-Parties") as persons having knowledge of relevant facts in Plaintiff's initial disclosures served in the above-styled litigation; (2) Defendant is entitled to discover the information in possession of the Subpoenaed Non-Parties; (3) Plaintiff's Motion to Quash did not stay the Subpoenaed Non-Parties obligation to respond to Defendant's document requests contained in Subpoenas Duces Tecum issued to each of the Subpoenaed Non-Parties; and (4) Defendant is entitled to depose his accusers, the Subpoenaed Non-Parties, before the Temporary Injunction hearing in this matter. Therefore, the Court is of the opinion that the Motion should, in all things, be DENIED.

Accordingly, it is ORDERED, ADJUDGED, and DECREED that Plaintiff's Motion is DENIED;

It is further ORDERED, ADJUDGED, and DECREED that the Subpoenaed Non-Parties appear for deposition ~~before August 26, 2022,~~ within 4 days of the date of this Order unless another date is agreed upon by the parties' counsel;

It is further ORDERED, ADJUDGED, and DECREED that the Subpoenaed Non-Parties respond and produce all non-privileged, responsive information to the document requests in each of their respective Subpoenas Duces Tecum within ~~seven (7)~~ 4 days of the date of the Court's order without objection.

SIGNED on this 25th day of August, 2022.

THE HONORABLE STACI WILLIAMS

EXHIBIT I

CAUSE NO. DC-22-00304

SCOTT BRYON ELLINGTON,	§	**IN THE DISTRICT COURT**
	§	
Plaintiff,	§	
	§	
	§	**DALLAS COUNTY, TEXAS**
v.	§	
	§	
PATRICK DAUGHERTY	§	
	§	
Defendant.	§	**101st JUDICIAL DISTRICT**

NON-PARTY MARCIA MASLOW'S OBJECTIONS AND RESPONSES TO DEFENDANT'S SUBPOENA DUCES TECUM

TO: Defendant Patrick Daugherty, by and through its attorneys of record, Ruth Ann Daniels, Andrew K. York, and Drake M. Rayshell, Gray Reed, 1601 Elm Street, Suite 4600; Dallas, Texas 75201.

Non-Party Marcia Maslow serves the following objections and responses to Defendant Patrick Daugherty's subpoena duces tecum ("Subpoena").

GENERAL OBJECTIONS

Ms. Maslow makes the following general objections to Patrick Daugherty's Requests for Production in the Subpoena, which are hereby incorporated by reference and made part of Ms. Maslow's responses to each request:

1. Ms. Maslow objects to the term "Investigation" (a) given that subsequent to the filing of Plaintiff's Petition and the Declaration of Greg Brandstatter, Plaintiff has characterized his stalking, surveillance, and other examination of Mr. Ellington and his family as an "investigation," and (b) use of the term "Investigation" as used in Requests therefore would be ambiguous, confusing, and would suggest that the efforts of Mr. Ellington to identify and document Mr. Daugherty's stalking is somehow equivalent to Mr. Daugherty's tortious "investigation". Therefore, as it relates to responses to these Requests, Ms. Maslow will use the term "Counter-Investigation" in substitute for the term "Investigation" as defined in these

Requests.[1]

2. Ms. Maslow objects to the Requests to the extent they seek information that is not within her possession, custody, or control.

3. Ms. Maslow objects to the Requests to the extent they seek the production/provision of documents or information protected from disclosure by privilege, including, without limitation, by the attorney-client privilege, attorney work product doctrine, the party communication privilege, the consulting expert privilege, the investigative privilege, the joint interest privilege, the common interest privilege, or any other applicable privileges.

4. Ms. Maslow objects to the Requests to the extent that they can be interpreted as requiring Ms. Maslow to create or produce documents that are not in existence.

5. Ms. Maslow is currently engaging in the discovery process, and reserves her right to amend or supplement these responses, if necessary.

6. All responses to the Requests are expressly subject to these General Objections, and such General Objections are incorporated into each individual response.

OBJECTIONS AND RESPONSES TO PRODUCTION OF DOCUMENTS

Marcia Maslow objects and responds to each of the Requests for Production in the Subpoena as follows:

1. Produce any and all Communications between You and Scott Byron Ellington evidencing, referring, or related to Patrick Daugherty.

RESPONSE: Ms. Maslow objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame, nor is this Request sufficiently tailored to the allegations in this dispute. Ms. Maslow objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving her objections, Ms. Maslow will produce documents, if any, relevant to Mr. Daugherty's actions as alleged in the Petition.

2. Produce any and all Communications between You and Byron Ellington (Scott Ellington's Father) evidencing, referring, or related to Patrick Daugherty.

RESPONSE: Ms. Maslow objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame, nor is this Request sufficiently tailored to the

---

[1] Accordingly, "Counter-Investigation" shall mean the investigation and counter surveillance operation concerning Patrick Daugherty that Gregory Allen Brandstatter opened on February 4, 2021 at Scott Ellington's request as referenced in paragraph 7 of the Deel. of Greg Brandstatter.

allegations in this dispute. Ms. Maslow objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving her objections, Ms. Maslow will produce documents, if any, relevant to Mr. Daugherty's actions as alleged in the Petition.

3. Produce any and all Communications between You and Stephanie Archer evidencing, referring, or related to Patrick Daugherty.

RESPONSE: Ms. Maslow objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame, nor is this Request sufficiently tailored to the allegations in this dispute. Ms. Maslow objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving her objections, Ms. Maslow will produce documents, if any, relevant to Mr. Daugherty's actions as alleged in the Petition.

4. Produce any and all Communications between You and Greg Brandstatter evidencing, referring, or related to Patrick Daugherty.

RESPONSE: Ms. Maslow objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame, nor is this Request sufficiently tailored to the allegations in this dispute. Ms. Maslow objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving her objections, Ms. Maslow will produce documents, if any, relevant to Mr. Daugherty's actions as alleged in the Petition.

5. Produce any and all Communications between You and Reese Morgan evidencing, referring, or related to Patrick Daugherty.

RESPONSE: Ms. Maslow objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame, nor is this Request sufficiently tailored to the allegations in this dispute. Ms. Maslow objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving her objections, Ms. Maslow will produce documents, if any, relevant to Mr. Daugherty's actions as alleged in the Petition.

6. Produce any and all Communications between You and any attorney or law firm representing Scott Byron Ellington evidencing, referring, or related to Patrick Daugherty.

RESPONSE: Ms. Maslow objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame, nor is this Request sufficiently tailored to the allegations in this dispute. Ms. Maslow objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving her objections, Ms. Maslow will produce documents, if any, relevant to Mr. Daugherty's actions as alleged in the Petition.

7. To the extent no included in any of the above requests, produce any and all Communications between You and any third parties evidencing, referring, or related to Patrick Daugherty.

RESPONSE: Ms. Maslow objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame, nor is this Request sufficiently tailored to the allegations in this dispute. Ms. Maslow objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving her objections, Ms. Maslow will produce documents, if any, relevant to Mr. Daugherty's actions as alleged in the Petition.

8. Produce any and all photographs in your possession allegedly depicting Patrick Daugherty outside Your home or business.

RESPONSE: Ms. Maslow objects to this Request to the extent it seeks discovery from a non-party that could be obtained through party discovery. Subject to, and without waiving such objection, Ms. Maslow will search for, and produce, any non-privileged responsive documents in her procession, custody, or control.

9. Produce any and all video in your possession allegedly depicting Patrick Daugherty outside Your home or business.

RESPONSE: Ms. Maslow objects to this Request to the extent it seeks discovery from a non-party that could be obtained through party discovery. Subject to, and without waiving such objection, Ms. Maslow will search for, and produce, any non-privileged responsive documents in her procession, custody, or control.

10. Produce any and all notes, memoranda or other similar documents evidencing, referring or related to Patrick Daugherty.

RESPONSE: Ms. Maslow objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Ms. Maslow objects to this request on the grounds that it seeks documents protected by the attorney client and/or party communications privileges. Without waiving her objections, Ms. Maslow will produce documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint.

11. Produce any and all notes, memoranda or other similar documents evidencing, referring or related to SAS Asset Recovery or its affiliates since April 1, 2014.

RESPONSE: Ms. Maslow objects to this Request as irrelevant, totally unrelated to the allegations in the case, made solely for improper purposes or the purposes of harassment, and further evidence of Mr. Daugherty's vigilante "investigation" into Mr. Ellington and his family.

12. Produce any and all notes, receipts, photos, videos or documents evidencing trips to the Cayman Islands that you participated in where Scott Byron Ellington was present from

April 1, 2014 to the present.

RESPONSE: Ms. Maslow objects to this Request as irrelevant, totally unrelated to the allegations in the case, made solely for improper purposes or the purposes of harassment, and further evidence of Mr. Daugherty's vigilante "investigation" into Mr. Ellington and his family.

13. Produce any and all documents related to CEV Holdings LLC and affiliates from April 1, 2014 to the present.

RESPONSE: Ms. Maslow objects to this Request as irrelevant, totally unrelated to the allegations in the case, made solely for improper purposes or the purposes of harassment, and further evidence of Mr. Daugherty's vigilante "investigation" into Mr. Ellington and his family.

14. Produce any and all Communications related to CEV Holdings LLC and affiliates from April 1, 2014 to the present.

RESPONSE: Ms. Maslow objects to this Request as irrelevant, totally unrelated to the allegations in the case, made solely for improper purposes or the purposes of harassment, and further evidence of Mr. Daugherty's vigilante "investigation" into Mr. Ellington and his family.

DATED: July 8, 2022

Respectfully submitted,

/s/ *Michael Hurst*

Michael Hurst
State Bar No. 10316310
mhurst@lynnllp.com
Mary Goodrich Nix
State Bar No. 24002694
mnix@lynnllp.com
Michele Naudin
State Bar No. 24118898
mnaudin@lynnllp.com
LYNN PINKER HURST & SCHWEGMANN LLP
2100 Ross Avenue, Suite 2700
Dallas, Texas 75201
Telephone: (214) 981-3800
Facsimile: (214) 981-3839

Julie Pettit
State Bar No. 24065971
jpettit@pettitfirm.com

THE PETTIT LAW FIRM
2101 Cedar Springs, Suite 1540
Dallas, Texas 75201
Telephone: (214) 329-0151
Facsimile: (214) 329-4076

ATTORNEYS FOR NON-PARTY MARCIA MASLOW

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2022 a true and correct copy of this document was served on all counsel of record, via ECF.

/s/ *Michele Naudin*
Michele Naudin

EXHIBIT J

CAUSE NO. DC-22-00304

SCOTT BRYON ELLINGTON,	§	**IN THE DISTRICT COURT**
	§	
Plaintiff,	§	
	§	
v.	§	**DALLAS COUNTY, TEXAS**
	§	
PATRICK DAUGHERTY	§	
	§	
Defendant.	§	**101st JUDICIAL DISTRICT**

NON-PARTY GREGORY ALLEN BRANDSTATTER'S OBJECTIONS AND RESPONSES TO DEFENDANT'S SUBPOENA DUCES TECUM

TO: Defendant Patrick Daugherty, by and through its attorneys of record, Ruth Ann Daniels, Andrew K. York, and Drake M. Rayshell, Gray Reed, 1601 Elm Street, Suite 4600; Dallas, Texas 75201.

Non-Party Gregory Allen Brandstatter serves the following objections and responses to Defendant Patrick Daugherty's subpoena duces tecum ("Subpoena").

GENERAL OBJECTIONS

Mr. Brandstatter makes the following general objections to Patrick Daugherty's Requests for Production in the Subpoena, which are hereby incorporated by reference and made part of Mr. Brandstatter's responses to each request:

1. Mr. Brandstatter objects to the term "Investigation" (a) given that subsequent to the filing of Plaintiff's Petition and the Declaration of Greg Brandstatter, Plaintiff has characterized his stalking, surveillance, and other examination of Mr. Ellington and his family as an "investigation," and (b) use of the term "Investigation" as used in Requests therefore would be ambiguous, confusing, and would suggest that the efforts of Mr. Ellington to identify and document Mr. Daugherty's stalking is somehow equivalent to Mr. Daugherty's tortious "investigation". Therefore, as it relates to responses to these Requests, Mr. Brandstatter will use the term "Counter-Investigation" in substitute for

the term "Investigation" as defined in these Requests.[1]

2. Mr. Brandstatter objects to the Requests to the extent they seek information that is not within his possession, custody, or control.

3. Mr. Brandstatter objects to the Requests to the extent they seek the production/provision of documents or information protected from disclosure by privilege, including, without limitation, by the attorney-client privilege, attorney work product doctrine, the party communication privilege, the consulting expert privilege, the investigative privilege, the joint interest privilege, the common interest privilege, or any other applicable privileges.

4. Mr. Brandstatter objects to the Requests to the extent that they can be interpreted as requiring Mr. Brandstatter to create or produce documents that are not in existence.

5. Mr. Brandstatter is currently engaging in the discovery process and reserves his right to amend or supplement these responses, if necessary.

6. All responses to the Requests are expressly subject to these General Objections, and such General Objections are incorporated into each individual response.

OBJECTIONS AND RESPONSES TO PRODUCTION OF DOCUMENTS

Gregory Brandstatter objects and responds to each of the Requests for Production in the Subpoena as follows:

1. Produce any and all Documents evidencing, referring, or related to the agreement between You and Scott Byron Ellington to conduct the Investigation.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

2. Produce any and all Communications evidencing, referring or related to the agreement between You and Scott Byron Ellington to conduct the Investigation.

[1] Accordingly, "Counter-Investigation" shall mean the investigation and counter surveillance operation concerning Patrick Daugherty that Gregory Allen Brandstatter opened on February 4, 2021 at Scott Ellington's request as referenced in paragraph 7 of the Deel. of Greg Brandstatter.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

3. Produce any and all photographs allegedly containing Patrick Daugherty from February 4, 2021 to present, including specifically those taken in connection with Your Investigation. Photographs responsive to this Request should be produced in their native form, specifically including the responsive photograph's metadata, if available.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

4. Produce any and all videos allegedly containing Patrick Daugherty from February 4, 2021 to present, including specifically those taken in connection with Your Investigation.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

5. Produce any and all Documents identifying the make/model, VIN number and license plate number of the car(s) that you used to follow Patrick Daugherty from February 4, 2021 to present.

RESPONSE: Mr. Brandstatter objects to this Request to the extent that is assumes that Mr. Brandstatter "followed" Mr. Daugherty, Without waiving such objection, Mr. Brandstatter has no responsive documents.

6. Produce any and all Documents that evidence, reflect, or relate to any third-parties following Patrick Daugherty.

RESPONSE: Mr. Brandstatter objects to this Request to the extent that is assumes that any third-parties "followed" Mr. Daugherty, Without waiving such objection, Mr. Brandstatter has no responsive documents.

7. Produce any and all Communications that evidence, reflect, or relate to third-parties following Patrick Daugherty.

RESPONSE: Mr. Brandstatter objects to this Request to the extent that is assumes that any third-parties "followed" Mr. Daugherty, Without waiving such objection, Mr. Brandstatter has no responsive documents.

8. Produce any and all handwritten or type-written notes or memoranda, as well as any verbal dictations, You made in connection with Your Investigation.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

9. Produce any and all Communications between You and Scott Byron Ellington in connection with Your Investigation.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

10. Produce any and all Communications between You and Marcia Maslow in connection with Your Investigation.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

11. Produce any and all Communications between You and Byron Ellington (Scott Ellington's Father) in connection with Your Investigation.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

12. Produce any and all Communications between You and Reese Morgan evidencing, referring, or related to Patrick Daugherty.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

13. Produce any and all of evidence that Daugherty has a history of anger issues.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint.

14. Produce any and all Communications between You and Stephanie Archer in connection with Your Investigation.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

15. To the extent not included above, produce any and all Communications with any other third parties in connection with Your Investigation.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the

grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

16. To the extent not included above, produce any and all Documents related to the Investigation.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

17. Produce a copy of Your current resume or curriculum vitae.

RESPONSE: Mr. Brandstatter will produce a responsive document.

18. Produce a copy of all invoices issued by You to Scott Byron Ellington in connection with the Investigation.

RESPONSE: Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter further objects to this request being irrelevant and will not produce documents.

19. Produce any and all Documents evidencing or reflecting any payments made by Scott Byron Ellington to You in connection with Your Investigation.

RESPONSE: Mr. Brandstatter objects to this request being irrelevant and will not produce documents.

20. All drafts of the Decl. of Greg Brandstatter.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint.

21. All Communications between You and Scott Bryon Ellington regarding the Decl. of Greg Brandstatter or any drafts of the Deel. of Greg Brandstatter.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint.

22. All Communications between You and any attorney representing Scott Byron Ellington regarding the Deel. of Greg Brandstatter or any drafts of the Decl. of Greg Brandstatter.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint.

23. Produce any and all Documents evidencing your relationship with Scott Byron Ellington prior to launching the Investigation of Daugherty

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

24. Produce any and all Documents evidencing any prior business with entities associated with Scott Byron Ellington prior to launching the Investigation of Daugherty.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Mr. Brandstatter specifically incorporates his first General Objection that the term "Investigation" should be replaced with the term "Counter-Investigation." Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint and the Counter-Investigation thereof.

25. Produce any and all Documents evidencing, referring, or related to Communications regarding Patrick Daugherty to the Dallas Police.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint.

26. Produce any and all Documents evidencing, referring, or related to Communications regarding Patrick Daugherty to the Highland Park Police.

RESPONSE: Mr. Brandstatter objects to this Request as overbroad and unduly burdensome because it is not limited to any relevant time frame. Mr. Brandstatter objects to this request on the grounds that it seeks documents protected by protected by attorney-client privilege, and work product privilege under Rule 192.5 of the Texas Rules of Civil Procedure. Without waiving his objections, Mr. Brandstatter will produce non-privileged, responsive documents, if any, relevant to Mr. Daugherty's actions as alleged in the Complaint.

DATED: July 8, 2022

Respectfully submitted,

/s/ Michael Hurst

Michael Hurst
State Bar No. 10316310
mhurst@lynnllp.com
Mary Goodrich Nix
State Bar No. 24002694
mnix@lynnllp.com
Michele Naudin
State Bar No. 24118898
mnaudin@lynnllp.com
LYNN PINKER HURST & SCHWEGMANN LLP
2100 Ross Avenue, Suite 2700
Dallas, Texas 75201
Telephone: (214) 981-3800
Facsimile: (214) 981-3839

Julie Pettit
State Bar No. 24065971
jpettit@pettitfirm.com
THE PETTIT LAW FIRM
2101 Cedar Springs, Suite 1540
Dallas, Texas 75201
Telephone: (214) 329-0151
Facsimile: (214) 329-4076

ATTORNEYS FOR
NON-PARTY GREGORY ALLEN BRANDSATTER

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2022 a true and correct copy of this document was served on all counsel of record, via ECF.

/s/ Michele Naudin
Michele Naudin

EXHIBIT 2

EXHIBIT
G

CAUSE NO. DC-22-00304

SCOTT BYRON ELLINGTON) IN THE DISTRICT COURT
)
Plaintiff,)
)
VS.) 101ST JUDICIAL DISTRICT
)
PATRICK DAUGHERTY,)
)
Defendant.) DALLAS COUNTY, TEXAS

****

ORAL AND VIDEOTAPED DEPOSITION OF

PATRICK DAUGHERTY

AUGUST 28, 2025

****

ORAL AND VIDEOTAPED DEPOSITION OF PATRICK DAUGHERTY, produced as a witness at the instance of the PLAINTIFF, and duly sworn, was taken in the above-styled and numbered cause on the 28th day of August, 2025, from 1:01 p.m. to 5:27 p.m., before Kristi Klund, CSR in and for the State of Texas, reported by machine shorthand, at the law offices of Gray Reed, 1601 Elm Street, Suite 4600, Dallas, Texas, 75201, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

A P P E A R A N C E S

FOR THE PLAINTIFF:
MS. JULIE PETTIT
THE PETTIT LAW FIRM
1900 N. Pearl Street, Suite 1740
Dallas, Texas 75201
jpettit@pettitfirm.com

FOR THE PLAINTIFF:
MR. MICHAEL K. HURST
LYNN PINKER HURST & SCHWEGMANN, LLP
2100 Ross Avenue, Suite 2700
Dallas, Texas 75201
mhurst@lynnllp.com

FOR THE DEFENDANT:
MR. DREW YORK
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
dyork@grayreed.com

ALSO PRESENT: Mr. Joe Willis (Videographer)

INDEX

	PAGE
Appearances	2
Stipulations	
PATRICK DAUGHERTY	
Examination by Ms. Pettit	7
Signature and Changes	223
Reporter's Certificate	225

PREVIOUSLY MARKED EXHIBITS

NO.	DESCRIPTION	PAGE
Exhibit 6	Text messages (DEF000236-DEF0000247)	38
Exhibit 23	Transcript of Proceedings (2/2/21)	173
Exhibit 30	e-mail	92
Exhibit 36	e-mail from Patrick Daugherty (Part 4)(JPS/ELL-011979-011983)	196
Exhibit 40	e-mail from Patrick Daugherty (DEF014516-14517)	193
Exhibit 44	e-mail from Patrick Daugherty (Part 3) (DEF010757-010759)	195
Exhibit 90	Phone image log	212
Exhibit 328	Text messages (DEF000236-000239)	181
Exhibit 377	e-mail from Patrick Daugherty (Part 2) (DEF00729-00730)	194
Exhibit 394	e-mail from Patrick Daugherty (DEF016322-DEF016324)	191
Exhibit 982	Text message chain produced by Mr. Seery	197
Exhibit 1069	Declaration of John A. Morris	150

MARKED EXHIBITS

NO.	DESCRIPTION	PAGE
Exhibit 1200	Plaintiff's First Requests for Production to Patrick Daugherty	75
Exhibit 1201	Defendant's Responses to Plaintiff's First Requests for Production	78
Exhibit 1202	Dallas Business Journal article	95
Exhibit 1203	Series of e-mails (DEF026146-DEF026147)	98
Exhibit 1204	Final Judgment	124
Exhibit 1205	Verified Complaint (NexBank 2017)	132
Exhibit 1206	Stipulation of Dismissal	134

CONTINUED MARKED EXHIBITS

NO.	DESCRIPTION	PAGE
Exhibit 1207	Verified Complaint (2019)	135
Exhibit 1208	Order Granting Motion to Dismiss	137
Exhibit 1209	Proof of Claim	145
Exhibit 1210	Schedules	167
Exhibit 1211	Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty and Authorizing Actions Consistent Therewith	176
Exhibit 1212	Notes made by Julie Pettit	186

THE VIDEOGRAPHER: Good afternoon. We're going on the record at 1:01 p.m. on August the 28th, 2025. Please note the microphones are sensitive and they may pick up whispering and private conversations. Please mute your phones at this time. This is the video recorded deposition of Patrick Daugherty, taken by counsel in the matter of Scott Byron Ellington versus Patrick Daugherty, filed in the District Court of Dallas County, Texas. The Case Docket Number is 22-00304. The location of the deposition is a 1601 Elm Street, Dallas, Texas.

My name is Joe Willis representing Veritext. I am the videographer. The court reporter is Kristi Klund from the firm Veritext. I'm not related to any party in this action, nor am I financially interested in the outcome. If there are objections to proceeding, please state them at the time of your appearance. Will counsel and all present, including -- well, nobody is remote. Please state your appearance and affiliation for the record.

MS. PETTIT: Julie Pettit for the Plaintiff.

MR. HURST: Michael Hurst for the Plaintiff, Scott Ellington.

MR. YORK: Drew York for Patrick

Daugherty. And Ms. Pettit, just a quick clarification question. So the Court's Order on this deposition that we're here today was compartmentalized into two parts. One being that there were questions that were asked at Mr. Daugherty's deposition previously that he was instructed to answer that he did not answer. And the Court has allotted three hours -- up to three hours for those questions for which he's not to be instructed not to answer again. And then the remaining hour and 55 minutes from the original time available for the first deposition may be used and is not limited in scope. Are you intending to segment your examination into --

MS. PETTIT: Yes.

MR. YORK: -- these two parts?

MS. PETTIT: It will be in two parts.

MR. YORK: And which part are you intending to do first?

MS. PETTIT: The unanswered questions.

MR. YORK: Okay. And would you let me -- I mean, I've got the list here but then just so that we can try to keep this on task today, when we get to the points those are done we can --

MS. PETTIT: I will let you know.

MR. YORK: Thank you.

MS. PETTIT: Yep.

MR. YORK: Okay.

PATRICK DAUGHERTY,

after having been first duly sworn, testified as follows:

EXAMINATION

BY MS. PETTIT:

Q. All right. Good afternoon, Mr. Daugherty. Can you please state your name for the record?

A. Patrick Hagaman Daugherty.

Q. And in your last deposition we discussed a company by the name of Corinthian Capital and you were instructed not to answer who the owner was of that company. Can you identify who the owner is?

A. I'm not familiar with Corinthian Capital.

Q. You've never heard of Corinthian Capital?

A. No. You want me to help you? I think it's Corinthian Healthcare.

Q. Okay. Corinthian Healthcare. Who is the owner of Corinthian Healthcare?

A. As I understand it, Judy McNeel.

Q. You said Judy --

A. McNeel?

Q. -- McNeel. And how do you know Ms. McNeel?

A. She is my mother-in-law.

Q. Okay. Does the owner of Corinthian have any knowledge about your investigation of Mr. Ellington in

MR. YORK: Object to form.

A. I guess somebody came down to the lobby to greet me, a baldheaded guy that was tall, and a woman and they brought me up and then I met with Seery up there, some other people one time. I don't know. I just --

Q. (BY MS. PETTIT) Other than Seery, who did you meet with?

A. I mean, do you count these people that -- this one guy was an accountant and I think -- and the woman was I want to say some level of administrative role. I just -- I don't recall.

Q. Anyone else that you know by name?

A. No.

Q. What were the purposes of your meetings at the Highland Capital offices?

A. To discuss settlement issues.

Q. Did you negotiate the agreements while you were there in the office?

MR. YORK: Object to form.

A. I just don't -- I don't recall. I mean, the negotiations took place starting in 2020 and went all the way to November 2021. So various things got determined at various times.

Q. (BY MS. PETTIT) Did you ever sign any agreements while you were there?

A. No. I don't think so. If you have something that can refresh my memory, but I don't recall signing anything.

Q. Did you provide any information, such as the data compilations during any of the meetings at Highland's offices?

A. No. I think that had all been done before for the most part. I mean, I don't know -- some of the data compilations I resent when -- what's his name -- you know, there's two phases. There's the Highland bankruptcy where there was a creditor's committee and then there was the emergence from bankruptcy which I want to say was August 2021. And so, parts of my deal were negotiated prior to that August -- oh, confirmation and emergence. And then after August, the creditor's committee went away and in came the claimant trust and the claimant litigation trustee, if I'm recalling this correctly, and -- so, yeah, I mean some were done before and some were done after.

Q. Did you ever take any of your Ellington Recordings, according to my definition, to your meetings at the Highland offices?

MR. YORK: Object to form.

A. Yeah, I don't know what an Ellington Recording is. I don't think I have any Ellington Recordings.

Q. (BY MS. PETTIT) Okay. So I'll represent to you that we consider your photos that you produced in this case Ellington Recordings, according to our definition in Request For Production?

A. That's a weird definition. I don't agree with it.

Q. Okay. I understand you don't agree with it, but I'm asking you using that definition did you provide or bring any Ellington Recordings with you to the deposition -- excuse me -- to the meeting at Highland's offices?

MR. YORK: Hold on. Object to form, compound.

A. Yeah, look, I'm going to try and just cut through it. Because I don't like the question. It doesn't make much sense, but I didn't bring any pictures of Ellington.

Q. (BY MS. PETTIT) Well, what about the other photos that you produced in this case? Did you take any of those pictures with you?

A. What photos are you talking about?

Q. Any photo that you've produced in this case.

A. I don't -- no. I didn't bring any photos to their offices, no.

Q. Okay.

A. On those occasions.
Q. All right.
A. And by the way, I never sent them any photos. The only photo that was sent was of Ellington standing in the front yard when he'd gone AWOL.
Q. That's the only photo you sent to Jim Seery?
A. Of -- of Ellington? Of Ellington?
Q. Of any photo that was produced in this case.
A. Oh, no. I mean, I sent the Highland employee that was -- what was her name -- Sarah Beth Goldsmith or she was Sara Bell back then. Yeah, she was a Highland employee. Ellington had been fired for over a month and I'm like, oh, by the way, your employee's over here at Ellington's place. And she's like, she's no longer an employee, blah, blah, blah. And that was like two days before; and I think he even mentioned in his deposition it was kind of suspicious why -- why she was over there. I did send him those pictures.
Q. Okay.
A. And -- and, look, if you have others, just remind me. Stop trying to trick me.
Q. Okay. I have not had a chance yet to listen to the exhibit or the document recording that you-all produced labeled DEF53104, but can you just tell me generally what that is?

A. Seery's lying.
Q. And what is he lying about?
A. Not knowing about my investigation, not knowing about multiple things.
Q. And when was this recording made?
A. I want to say May 2022.
Q. So was it before or after his deposition?
A. Who's deposition?
Q. Mr. Seery?
A. Before.
Q. So you have a recording of Mr. Seery prior to his deposition which is now inconsistent, you're saying, with his deposition?
A. Correct.
Q. Okay. And why did you make that recording at the time?
A. Oh, because people lie, deny and die.
Q. What does that mean?
A. What do you think it means? It means what it says. People lie, you know, like Mr. Hurst to a jury or Mr. Seery in this case; and people deny, like Ellington, et cetera and lie and some people die -- some witnesses die over time. And so I made that recording to do -- to just trust but verify, you know. I didn't want there to be a situation where somebody turned on me and said, hey,

I had no idea and that's kind of what happened in that deposition. And we gave him every opportunity to set the record straight and he chose not to.

Q. What do you mean by you gave him every opportunity?

A. We asked him to clarify.

Q. During the deposition?

A. I think so --

Q. Okay.

A. -- yeah, and he dug in -- foolishly so, in my opinion.

Q. Are there any other recordings that you have between you and Mr. Seery?

A. Yes.

MR. YORK: Object to form.

A. I'm sorry, yes.

Q. (BY MS. PETTIT) Do any of them involve Mr. Ellington?

MR. YORK: Objection to form.

A. No.

Q. (BY MS. PETTIT) Is there any other -- was this recording made at an in-person meeting or over the phone?

A. Phone. He was in New York. I was in Dallas.

Q. Do you know if New York is a one or two-party state?

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored

in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

EXHIBIT 3

FILED
10/28/2025 10:48 AM
FELICIA PITRE
DISTRICT CLERK
DALLAS CO., TEXAS
Al Clerk DEPUTY

CAUSE NO. DC-22-00304

SCOTT BYRON ELLINGTON	§	**IN THE DISTRICT COURT**
Plaintiff,	§	
V.	§	**101st JUDICIAL DISTRICT**
PATRICK DAUGHERTY,	§	
Defendant.	§	**DALLAS COUNTY, TEXAS**

PLAINTIFF'S SIXTH MOTION TO COMPEL

Plaintiff Scott Byron Ellington ("Plaintiff" or "Ellington") files this Sixth Motion to Compel against Defendant Patrick Daugherty ("Defendant" or "Daugherty") pursuant to Texas Rule of Civil Procedure 215.1. Plaintiff respectfully shows the Court as follows:

I. SUMMARY

Ellington once again seeks the Court's assistance to obtain discovery responses from Daugherty, who continues to play games with the production of documents and information. On August 28, 2025, Daugherty produced for the first time a 26-minute audio recording (the "Recording") of a May 4, 2022 conversation between himself and Jim Seery, in which Plaintiff Scott Ellington and other Ellington Parties are discussed in detail. The Recording is plainly responsive to multiple outstanding discovery requests that have already been the subject of a Court Order compelling compliance. Defendant's delayed production of this highly relevant Recording demonstrates that Defendant has either (1) withheld responsive recordings in violation of Court orders, or (2) failed to conduct an adequate search for such recordings.

This Motion seeks to compel production of all additional responsive recordings in Defendant's possession, custody, or control, and information sufficient to verify whether additional recordings exist.

II. PROCEDURAL BACKGROUND

1. Plaintiff has served multiple sets of Requests for Production seeking, among other things, all recordings, documents, and communications related to the surveillance, observation, or investigation of the Ellington Parties and Ellington Locations.

2. On June 14, 2022, Defendant served responses to several of these Requests, including:

- *RFP No. 2*: All documents and communications containing or referencing any Ellington Recording sent to or received from any person or entity.
- *RFP No. 3*: All documents and communications with any person or entity regarding the Ellington Recordings and/or the surveillance, observation, recordation, or investigation of any Ellington Party or Location.
- *RFP No. 4*: All electronic or handwritten notes, memoranda, or other documents related to or evidencing such surveillance, observation, recordation, or investigation.
- *RFP No. 8*: All documents and communications sufficient to show any individual or entity, other than Defendant, who was aware of or involved in those efforts. *See* **Exhibit A**, Defendant's June 14, 2022 Responses.

3. On October 10, 2022, Defendant provided further responses, including to:

- *RFP No. 15*: All documents and communications referencing any Ellington Party, Location, or Recording sent to or received from Jim Seery.
- *RFP No. 26*: All documents and communications referencing any Ellington Party, Location, or Recording sent to or received from any person or entity.

- *RFP No. 29*: All documents and communications from third parties relating to any notes, memoranda, commentary, or other documents evidencing or discussing Defendant's surveillance, observation, recordation, or investigation of Ellington Parties or Locations. *See* **Exhibit B**, Defendant's October 10, 2022 Responses.

4. On July 7, 2023 Plaintiff filed its Third Motion to Compel, requesting Defendant completely and fully produce documents in Defendant's possession, custody, or control that are responsive to Plaintiff's Discovery Requests. *See* **Exhibit C**, Plaintiff's Third Motion to Compel.

5. On March 19, 2025, this Court entered an Order compelling Defendant to fully respond to, among others, Requests for Production Nos. 2, 3, 8, 15, 26, and 29.[1] *See* **Exhibit D**, March 19, 2025 Order.

6. At the time of that Order, Daugherty was in possession of the Recording taken on May 4, 2022 that is clearly responsive to at least Requests for Production Nos. 2, 3, 4, 8, 15, 26, and 29. *See* **Exhibit F**, transcript of the Recording.

7. The twenty-six minute and eleven second (26:11) Recording appears to be a conversation between Defendant Daugherty and Jim Seery. The recording specifically discusses Mr. Daugherty taking photographs of, among others, Mr. Ellington and his then fiancé, now wife, Stephanie Archer, at or around the 14:22 mark. There are further discussions of Mr. Ellington on the Recording.

[1] While Request for Production No. 4 is not included in the Order, Daugherty stated that he would produce copies of non-privileged documents responsive to this request, if any, within his possession, custody or control on a rolling basis in his June 14, 2022 Responses to Plaintiff's First Requests for Production. *See* **Exhibit A**.

8. Despite the Court's Order, Defendant failed to produce the May 4, 2022 Recording until August 28, 2025, after multiple discovery deadlines and less than three weeks before the then-current trial setting. Mr. Daugherty was set for his supplemental deposition on August 28, 2005. Moments before the deposition, Mr. Daugherty's counsel handed the Recording on a flash-drive to Plaintiff's counsel. Mr. Daugherty then made it clear at the deposition that he produced the recording because it exposes that Jim Seery lied about not knowing about Mr. Daugherty's "investigation" of Mr. Ellington. *See* Exhibit G (Daugherty August 28, 2025 deposition) at 102:22 – 103:11. That is, he produced this recording now because it's suddenly beneficial to him—not because it should have been produced long ago both in response to requests for production and this Court's March 19, 2025 Order.

9. Trial in this matter was originally scheduled for September 5, 2023, and has since been reset several times: first to June 3, 2024, then to August 5, 2025, and again to September 16, 2025. It is now set for April 27, 2026. The May 4, 2022 Recording was not produced until after both the original and several reset trial dates, underscoring Defendant's continued noncompliance with his discovery obligations.

10. On August 29, 2025, Plaintiff's counsel issued a letter demanding the production of all additional responsive recordings, identification of all devices used to create or store the May 4, 2022 Recording, and an explanation for the delayed production. *See* **Exhibit E**, Plaintiff's August 29, 2025 Letter.

11. To date, Defendant has provided neither an explanation of the prior failure to produce the Recording nor any additional recordings. Accordingly, Plaintiff is forced

to file this additional Motion to Compel regarding the same subject matter as the Court's March 19, 2025 Order.

III. ARGUMENTS & AUTHORITIES

A. Standard.

The Texas Rules of Civil Procedure emphasize full transparency in discovery. The purpose of discovery is to seek the truth so that disputes may be decided by what facts are revealed, not by what facts are concealed. *Crosstex Energy Services, L.P. v. Pro Plus, Inc.*, 430 S.W.3d 384, 394 (Tex. 2014). When responding to written discovery, a party must make a complete response, based on all information reasonably available to the responding party or its attorney at the time the response is made. Tex. R. Civ. P. 193.1.

Timely supplementation of incomplete discovery is a continuing obligation under Texas law. A party must make a full and complete response to proper discovery requests and must timely supplement those responses as needed—no later than thirty days before trial. *See Branham v. Brown*, 925 S.W.2d 365, 370 (Tex. App.—Houston [1st Dist.] 1996, no writ); *Tex. R. Civ. P.* 193.5(b). While Rule 193.5 presumes that supplements made less than thirty days before trial are untimely, courts have made clear that no opposite presumption exists for supplements made more than thirty days before trial. *See Snider v. Stanley*, 44 S.W.3d 713, 715 (Tex. App.—Beaumont 2001, pet. denied). Rather, a party must supplement "reasonably promptly" after discovering the need to do so. *Tex. R. Civ. P.* 193.5(b).

Whether a response is reasonably prompt depends on the circumstances, and Dallas courts have found supplementation untimely where the responding party had the materials in their possession for an extended period, was clearly on notice of their relevance, and failed to provide any justification for the delay. *See Interest of A.R.M.*, 593 S.W.3d 358, 375 (Tex. App.—Dallas 2018, pet. denied) (holding supplementation was not reasonably prompt where materials were in party's possession for eight months and prior requests clearly covered the documents); *In re Staff Care, Inc.*, 422 S.W.3d 876, 881 (Tex. App.—Dallas 2014, no pet.) (holding supplementation untimely where requests had been pending for two years and plaintiff failed to provide the information despite answering deposition questions on the subject).

Further, when a party fails to comply with a discovery order, such as an order granting a motion to compel, Rule 215.2(b) authorizes the Court to issue "just" orders, including those compelling further compliance or requiring the disobedient party or counsel to pay reasonable expenses caused by the failure. *See* Tex, R. Civ. P. 215.2(b). Rule 215.2(b)(8) provides that the court shall require the disobedient party, the advising attorney, or both to pay such expenses, including attorneys' fees, unless the failure was substantially justified. *See* Tex. R. Civ. P. 215.2(b)(8).

Additionally, Rule 215.3 empowers the court to impose appropriate remedies if it finds a party is abusing the discovery process by resisting discovery improperly or engaging in delay tactics. *See* Tex. R. Civ. P. 215.3. While the trial court has broad authority to impose sanctions, the sanctions imposed must be just. *See TransAmerican Nat. Gas Corp. v. Powell*, 811 S.W.2d 913, 917 (Tex. 1991); *Shops at Legacy (Inland) Ltd. P'ship v.*

Fine Autographs & Memorabilia Retails Stores, Inc., 418 S.W.3d 229, 232 (Tex. App.—Dallas 2013, no pet.). However, trial courts may impose death penalty sanctions when a party has repeatedly failed to comply with discovery orders, especially after having been warned of the consequences of continued noncompliance. *See Hizar v. Heflin*, 672 S.W.3d 774, 784–85 (Tex. App.—Dallas 2023, pet. denied) (affirming the trial court's imposition of death penalty sanctions, striking the defendant's pleadings, for failure to comply with two orders compelling discovery).

Collectively, these rules give the Court broad authority to enforce compliance with discovery obligations, protect the integrity of the discovery process, and, where appropriate, require the offending party to bear the costs incurred in seeking relief.

B. Defendant's Belated Production Violates the Court's Discovery Orders

Defendant's delayed production of the May 4, 2022 Recording violates both the Texas Rules of Civil Procedure and this Court's prior discovery order. As discussed above, Rule 215.1 expressly authorizes a party to move to compel discovery when another party fails to comply. Moreover, Rules 192.3 and 196.3 require parties to produce all relevant documents and tangible items within their possession, custody, or control in response to proper discovery requests.

The May 4, 2022 Recording is clearly responsive to at least Requests for Production Nos. 2, 3, 4, 8, 15, 26, and 29, each of which seeks documents or communications related to surveillance, recordings, and investigations involving Ellington and affiliated individuals. *See* **Exhibit A-B**, Defendant's Discovery Responses. This Court's March 19, 2025 Order specifically compelled Defendant to respond to those same Requests. *See*

Exhibit D, March 19, 2025 Order (compelling responses to Requests for Production Nos. 2-3, 7-8, 14-30, and 34-35). Yet, Defendant failed to produce the Recording until August 28, 2025, more than five months after the Court's Order and after multiple discovery deadlines had passed.

There is no credible justification for this delay. The content and timing of the Recording make clear that it was responsive and within Defendant's possession during earlier discovery exchanges. Defendant's failure to produce it in a timely manner not only violates the Rules of Civil Procedure, it also constitutes a direct violation of the Court's order. This disregard for the discovery process reinforces the need for judicial intervention to ensure full compliance going forward.

C. The Late Production Raises Reasonable Suspicion of Additional Recordings

Defendant's last-minute production of a single, highly relevant recording long after the Court ordered compliance also raises serious concerns about whether additional responsive materials remain unproduced. Daugherty indicated that he produced the Recording because it fit his personal agenda of proving that Mr. Seery had lied in his deposition in March 2024. *See* Exhibit G at 102:22 – 103:11. Mr. Daugherty produced the Recording on August 28, 2025, was deposed on same day, and testified about the Recording at the deposition. It is plain that but-for the setting of Daugherty's supplemental deposition (as a result of another Court order) and Daugherty's desire to

use the Recording to get back at Mr. Seery, the Recording never would have seen the light of day.[2]

On August 29, 2025, Plaintiff issued a letter demanding that Defendant produce all other responsive recordings, identify the devices or platforms used to record or store the May 4, 2022 Recording, and explain the reason for the delayed production. *See* **Exhibit E**, Plaintiff's August 29, 2025 Letter. To date, Defendant has failed to respond to that letter.

The content of the May 4, 2022 Recording itself, which discusses Plaintiff and other Ellington Parties in detail, shows that Defendant had both the means and practice of recording conversations relevant to this case. Defendant's history of surveillance and documentation, including photography of Plaintiff and his family, email and text messages referencing investigative efforts, and prior communications with third parties, further suggests that the May 4, 2022 Recording is not an isolated instance. Defendant's investigative activity at multiple locations involving multiple individuals supports the inference that additional recordings or communications exist.

In light of these circumstances, Plaintiff has a reasonable basis to believe that other responsive recordings have either been improperly withheld or overlooked. Without an order compelling compliance, including the identification of devices used and locations where recordings are stored, Plaintiff cannot verify that Defendant has fulfilled his discovery obligations. Plaintiff therefore respectfully requests that the Court issue a secondary order compelling full and transparent compliance. Plaintiff further requests

[2] Mr. Daugherty did testify that he had other recordings of Mr. Seery, but that none of them mention Mr. Ellington. Given the circumstances regarding the production of the Recording and the apparent lack of prior review by counsel, Mr. Daugherty's self-serving assertion should be given no weight by the Court.

language in the Order warning Defendant of the potential consequences of any further non-compliance in this case.[3]

IV. CONCLUSION & PRAYER

For the foregoing reasons, the Court should enter an order compelling Defendant to do the following within seven (7) days:

a. Produce all other recordings by Mr. Daugherty regarding any Ellington Party, Location, or Recording, as those terms are defined in the Requests for Production.

b. Produce all other recordings responsive to the Requests for Production compelled by the Court's March 19, 2025 Order, including but not limited to Requests for Production Nos. 2, 3, 8, 15, 26, and 29.

c. Produce any other responsive documents that have been overlooked by Defendant.

d. Provide information sufficient to identify what mechanism(s) or device(s) Defendant used to make and/or store the Recording in order to permit verification of the presence or absence of any additional responsive recordings.

Plaintiff prays for all such other relief to which he may be justly entitled.

V. APPENDIX

Exhibit A	Defendant's June 14, 2022 Responses to RFPs
Exhibit B	Defendant's October 10, 2022 Responses to RFPs
Exhibit C	Plaintiff's Third Motion to Compel
Exhibit D	March 19, 2025 Order
Exhibit E	Plaintiff's August 29, 2025 Letter

[3] Texas courts recognize that an order compelling discovery, when paired with an express warning of consequences for future noncompliance, constitutes an appropriate lesser sanction under Rule 215. See *Hizar v. Heflin*, 672 S.W.3d 774, 785 (Tex. App.—Dallas 2023, pet. denied).

Exhibit F	Recording taken on May 4, 2022
Exhibit G	Daugherty August 28, 2025 deposition

Respectfully Submitted,

THE PETTIT LAW FIRM

By: */s/ Julie Pettit*
Julie Pettit
State Bar No. 24065971
jpettit@pettitfirm.com
THE PETTIT LAW FIRM
1900 N. Pearl Street, Suite 1740
Dallas, Texas 75201
Telephone: (214) 329-0151
Facsimile: (214) 329-4076

Michael K. Hurst
State Bar No. 10316310
mhurst@lynnllp.com
Mary Goodrich Nix
State Bar No. 24002694
LYNN PINKER HURST & SCHWEGMANN LLP
2100 Ross Avenue, Suite 2700
Dallas, Texas 75201
Telephone: (214) 981-3800
Facsimile: (214) 981-3839

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

On August 29, 2025, Counsel for Plaintiff contacted Counsel for Defendant regarding his failure to comply with the Court's March 19, 2025 Order. As of the date of this filing, Counsel for Plaintiff has not received any response.

/s/Julie Pettit
Julie Pettit

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon all counsel of record via ***electronic service*** on October 28, 2025.

/s/Julie Pettit
Julie Pettit

EXHIBIT
F

CAUSE NO. DC-22-00304

SCOTT BYRON ELLINGTON,)
)
Plaintiff,) IN THE DISTRICT COURT
)
V.) 101ST JUDICIAL DISTRICT
)
PATRICK DAUGHERTY) DALLAS COUNTY, TEXAS
)
Defendant.)

****

APPEARANCES

MALE SPEAKER 1

MALE SPEAKER 2

INDEX

EXHIBITS

NO.	DESCRIPTION	PAGE
NONE MARKED		

MALE SPEAKER 1: Correct. And -- and so they're -- they're going to be fine to withdraw their claims. CalPERS can't find it. I've got to -- I got to call those guys again. Like, they literally don't know who -- who is responsible for filing it. It was somebody in legal in San Francisco. So I -- I got to try to hound that. If we can get ---

MALE SPEAKER 2: I -- I thought they were -- I thought -- as I recall, I thought CalPERS filed a claim really just so that Dondero (phonetic) would have to go through on buying their shares at whatever it was, 68 or $72 a share.

I -- I thought they said, "Look, we don't care what is going on with this bankruptcy. That was the deal that was struck. We need to get paid." I thought that was their claim. And I thought that had been paid during the estate. Yeah.

MALE SPEAKER 1: But -- but what they didn't know was they were selling them at 6850 and he was selling them at 7250 or 6750 and 7250. He was giving them five bucks.

MALE SPEAKER 2: Okay. Well, he was skimming them a lot more than that because it sold for 146. But yeah.

MALE SPEAKER 1: You think?

MALE SPEAKER 2: While he was on the board, I mean, that's why he was trying to give you that -- force you to use

his insider information because he knew that, you know, Amazon was there for 146. I mean, that's what I've read in the press.

MALE SPEAKER 1: Yeah. It was all in the press anyway, but whatever.

MALE SPEAKER 2: Yeah.

MALE SPEAKER 1: I think the -- my point is if I can get those withdrawn and then we can figure out the other tax guys if that -- and I'll talk to Demo (phonetic) about that other than you and Todd, then as we -- I don't think we want to -- let -- we'll try to figure out where this tax -- you know, the status of the tax litigation.

MALE SPEAKER 2: Yeah.

MALE SPEAKER 1: But then it's easier to make a distribution and reserve.

MALE SPEAKER 2: Yeah. That's all. And -- and that was what I was calling about. I'm obviously going to stick to the terms of our deal, but just want to make sure the estate doesn't get liquidated and we get, you know ---

MALE SPEAKER 1: No -- no. Of course not.

MALE SPEAKER 2: Okay.

22 MALE SPEAKER 1: And also, I don't -- there's no

23 point in spending money while -- you know, we're all -- we're

24 all going to -- if ---

25 MALE SPEAKER 2: Yeah, if you do that, we'll sit

1 tight. We're not -- we're not dying to go and fight you.

2 MALE SPEAKER 1: Yeah, we'll just -- because

3 hopefully it'll -- it'll go away. I mean, at some point --

4 it's 10 years old, it's -- there's -- there's got to be a

5 resolution.

6 MALE SPEAKER 2: You would think. But, I mean, I

7 -- like you said, I think you hit the nail on the head. I

8 think they're after Dondero and Occada (phonetic) for the big

9 money and, you know, until they get some resolution on that,

10 you know, who knows?

11 I mean, you guys brought up a host of other tax

12 fraud issues when it came to all these transactions between

13 all these entities, right? The moving of the shared services

14 and the employment reimbursement contracts back and forth and

15 all that. I can't imagine that the ---

16 MALE SPEAKER 1: They said once that they were tax

17 fraud. Deveaux Lucarini (phonetic) brought that up.

18 MALE SPEAKER 2: That's what I mean, you brought up

19 the transactions and Deveaux brought up the tax fraud. No,

20 Morris made a point to -- to let the Judge know that you-all

21 -- you guys say -- you're assuming they're completely

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

22 legitimate. If they're not, that's between, you know,

23 Dondero and the IRS, but yeah.

24 Anyway -- well, the reason why it -- it's on my

25 mind is because, you know, rumor mill, Dondero is running

1 around town telling everybody he is going to get back

2 Highland. He is going to get back the name, the brand, you

3 know, the legacy, whatever else goes along with it, he is

4 claiming he is going to get it back.

5 So, you know, my thought is if he has got any

6 grounds for saying that, which I always doubt first that

7 anything he says is true, but to the extent it is true, I

8 just want to make sure my unresolved things are getting

9 resolved. Unless he is going to do what he says he is going

10 to do, which is buy out this estate.

11 MALE SPEAKER 1: Yeah. Like, he is fucking insane.

12 MALE SPEAKER 2: Okay. Well, I figured, like I

13 said ---

14 MALE SPEAKER 1: You know, he -- he can definitely

15 buy out the estate and -- and, you know, if it's -- if

16 there's $600 million, like he said, you know, sold to him at

17 a 20 percent discount.

18 MALE SPEAKER 2: Yeah. He said you're sitting on

19 200 million in cash and the value of everything is 600. I

20 don't know. You -- like, you and I already talked about

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

that. You just said he is making it up, so --

MALE SPEAKER 1: He is making it up.

MALE SPEAKER 2: Yeah. Not the first time. Okay. Those were -- that was -- those were those two items -- oh -- oh, on Ellington. You had mentioned to me in many

conversations ago that he told you that he had a special relationship with Hoffman. He was bragging about it. I -- I can't remember what it was, but that -- and then the same conversation, I think you mentioned to me that he also said that I was stalking Hoffman at Disneyland, and I followed him all around Disneyland.

MALE SPEAKER 1: Yeah.

MALE SPEAKER 2: You mind -- I mean, we may have to call you as a witness on that. I -- I'm not sure that we will, but on the one hand it's defamation because I never stalked Hoffman at all at Disneyland or anywhere else.

But on the other hand, just want to -- we may need to show at some point down the line, Hey, this Ellington guy, he has -- he has used the stalking card before, and I don't know if you know this or not, but they're desperately trying to get back in front of Hoffman.

We have Judge Williams or Williamson, and they're trying to claim that all this stalking stuff relates back to the case way back in 2012. In fact, the papers that -- that Michael Hurst filed with the Court didn't even acknowledge

the settlement where everything in the Texas action against me was vacated.

They're still operating and trying to tell the Court that Hoffman should have jurisdiction over this because of all the things that the jury found against me back in

2014. If you can believe it, that's actually what they're doing. That's what Michael Hurst is doing.

MALE SPEAKER 1: I mean, but all you got to do is put in front this other person, like -- yeah, the jury journal has struck -- maybe whatever they found was based on a whole thing of lies.

MALE SPEAKER 2: Yeah. Well, fortunately you did a really good job. I didn't even expect it. And were it not for Ellington objecting to my claim, it never would have gone on record. But in the transcript, you said there's fraud here, which was one of the most disturbing things that you discovered. And that there never was an escrow account. So, you know, it couldn't have been better.

MALE SPEAKER 1: I mean, I got -- I keep -- you -- you can't say this about Highland anymore because, like, how could I still be shocked, but I'm still shocked about stuff that I learned.

MALE SPEAKER 2: Yeah.

MALE SPEAKER 1: I -- I'm just blown away. Like,

20 I'm -- I mean, these guys literally fucking put on in front
21 of -- but now I've seen them do it again. You know, they put
22 it on in front of judges a fucking fraudulent case about
23 there being an escrow and about there being plenty of money
24 to pay you if you prevail. And then they -- they don't pay
25 you fucking, like, 2.6 million. Who the fuck does that?

1 MALE SPEAKER 2: I know -- I know. And -- I mean,
2 it's just unbelievable.
3 MALE SPEAKER 1: You paid him, like, it's fucking
4 insane.
5 MALE SPEAKER 2: You -- I don't even know if you
6 know the whole of it. They sent the constable over to my
7 house to seize my assets, claiming that I hadn't paid
8 anything. So I had to wire them 3.1 million because of
9 interest. All the while, they had taken all the assets out
10 of the escrow.
11 And Ellington has filed an affidavit saying that on
12 personal knowledge, I didn't have the assets to make due on
13 their claim against me. It was just unbelievable. But
14 anyway, I -- I don't want to go through all that. It's --
15 it's not your problem anymore.
16 MALE SPEAKER 1: No -- no. That was a horrible
17 thing. I think you told me that you were away and your wife
18 called you.
19 MALE SPEAKER 2: I was in New York and my wife was

in a complete panic with the kids, and I had my in-laws trying to get them out here, and we thought they might come in and take the dogs. So it was just ridiculous. But it is what it is. And I -- again, I'm not trying to drag you into that.

MALE SPEAKER 1: Yeah. I would say -- look, I

don't know if I could say he said he had a special relationship. I don't ---

MALE SPEAKER 2: Well, that's what I'm getting at. What did he tell you as far as -- you said he boasted something about Hoffman, and I don't want to paraphrase you. I want to know what did he say.

MALE SPEAKER 1: It -- it's hard to -- I'm trying to be as both accurate in -- in memory. It was more in passing that he had a good relationship with Judge Hoffman. I think he said he had lunch with him. Now I may conflate some stuff because I think you or someone else has told me that, you know, he and -- and Levington (phonetic) and Savilla (phonetic) and Dondero -- not -- not that anything is illegal about it, but they all just happened to contribute to ---

MALE SPEAKER 2: Not Dondero, but yes, it was -- it was -- that I did tell you. I don't know if you heard from others, but it was -- it was Ellington, Levington, Savilla

19 and D'Orio (phonetic) contributed $25,000 to Judge Hoffman's
20 runoff campaign as Judge Hoffman was hearing a contempt of
21 Court case from them against me. But anyway, I could prove
22 that because I've got the records from the Attorney General's
23 office.
24 MALE SPEAKER 1: Right.
25 MALE SPEAKER 2: I just couldn't remember exactly

1 what it was that he boasted to you.
2 MALE SPEAKER 1: It was some -- it was hard to -- I
3 can't say it was Hoffman. There was definitely some
4 implication that he knew the Dallas Judges and he could have
5 lunch with them ---
6 MALE SPEAKER 2: Oh, so it wasn't even -- it wasn't
7 even specific to Hoffman?
8 MALE SPEAKER 1: It -- I don't -- I don't recall.
9 He is the only judge that -- that I've heard a name because
10 that went to the Disneyland thing.
11 MALE SPEAKER 2: Well, he -- yeah, that was pretty
12 clear. He did -- he -- you know, there's only one. That was
13 Hoffman that he was referring to there, so ---
14 MALE SPEAKER 1: Yeah. And -- and ---
15 MALE SPEAKER 2: And didn't he tell you I --
16 because you asked me. No, don't you remember early on you
17 asked me -- you were like, "Hey, man, you don't have to tell
18 him if you don't want to, but did you" ---

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

MALE SPEAKER 1: No. He said -- he -- he said that you stalked the guy.

MALE SPEAKER 2: Yeah.

MALE SPEAKER 1: Right? And so -- and told me all about it, how Hoffman came back, you know, really disturbed. And that's why he, like, put a -- some kind of order against you or something.

MALE SPEAKER 2: Well, okay. As usual, he was lying. I mean, I -- I did talk to Hoffman and he did say it was an improper ex parte communication, even though I was talking to him about a case I wasn't even involved in. But anyway, be that as it may, that's kind of my point is ---

MALE SPEAKER 1: Apparently, you didn't just fly and follow the dude to Disneyland. You go there with your family.

MALE SPEAKER 2: Yeah. Every year. And when I saw him, I was with my wife and daughter because I didn't even see him initially. My wife did. And she is like, you ought to introduce Judge Hoffman to your family and blah, blah, blah, blah. So, you know, I'm not -- I got my wife and daughter if necessary for witnesses on that front.

But I think we may have to show the Court, you know, that, A, this guy lies all the time, you know, not just about all the business stuff, but he has used the stalking

thing before. Because I'm still having to deal with that --

MALE SPEAKER 1: I'll tell you one thing this guy has done is he has run from this case.

MALE SPEAKER 2: In what sense?

MALE SPEAKER 1: Their defense on the -- on the, you know, whatever this Rukavina thing he made up that they -- we were -- had to renegotiate this contract with Frank Waterhouse at the beginning of the case, told the ---

MALE SPEAKER 2: Oh, yeah. Well, he said he told Ellington.

MALE SPEAKER 1: Frank Caruso ---

MALE SPEAKER 2: Yeah.

MALE SPEAKER 1: --- just happens to be retired. So they -- they pick on Fred and then -- and Ellington and Levington -- well, Ellington and Levington are your guys. They -- you -- if 100 percent of their income come from Dondero, why weren't they testifying?

MALE SPEAKER 2: Oh, I see what you're saying. It's not like they dodged a subpoena from you, they just ---

MALE SPEAKER 1: No -- no. Oh, they did. When -- when we said, oh, we're going to actually -- we subpoenaed them for the -- the CPMC claims, they just agreed to take zero.

MALE SPEAKER 2: Got you.

MALE SPEAKER 1: (Indiscernible).

MALE SPEAKER 2: Well, because you had already taken both of their depositions -- I want to say January 56 -- 15th and 16th of 2021. Because that's when I found out about ---

MALE SPEAKER 1: I thought that was Klubock (phonetic).

MALE SPEAKER 2: Oh, was January 15th -- was that Klubock in January 15 and 16th?

MALE SPEAKER 1: I think Klubock took that.

MALE SPEAKER 2: Because that was the whole where Ellington said he -- he didn't know anything about Nimitz and Patton.

MALE SPEAKER 1: Yeah, well, we -- we know those true -- we know those unequivocally to be false.

MALE SPEAKER 2: Right. Remember I went and found Cayman Islands registrar and I gave this to Paige Montgomery at the time, and I found that Diorio was the board member of Sentinel.

MALE SPEAKER 1: Yeah. And -- and, you know, during -- during the case, Sentinel provided an indemnity, unbeknownst to me or anybody else, when I started getting a little bit close, maybe in the beginning of the summer when they were fraudulently hiding the whole settlement -- the whole payments to UBS.

17 And they were working with me on the strategy to
18 fight UBS, they got -- must have gotten worried. And
19 Savilla, Levington, Ellington, Katie Irving, Stephanie
20 Patella, all got indemnities, a written indemnity that they
21 each signed from Sentinel in June of 2020. Nobody ever
22 mentioned Sentinel. This was during the case while they were
23 full-time employees in Highlands.
24 MALE SPEAKER 2: Wow.
25 MALE SPEAKER 1: And then, you know, this guy says

1 he doesn't remember anything about the Sentinel structure.
2 MALE SPEAKER 2: Oh, I know. Yeah. He -- he said
3 he didn't know about it. He didn't -- wasn't involved and
4 knew -- knew he had heard the word, but that was it, you
5 know, blah, blah, blah.
6 MALE SPEAKER 1: Yeah. He knew -- he knew how to
7 build all of his expenses through it ---
8 MALE SPEAKER 2: Yeah.
9 MALE SPEAKER 1: --- at the very time.
10 MALE SPEAKER 2: Yeah.
11 MALE SPEAKER 1: With this indemnity. Yeah.
12 MALE SPEAKER 2: Well, okay. I -- I'm glad you
13 clarified on the whole judge thing. Just because if it
14 becomes necessary, we're going to have to, you know ---
15 MALE SPEAKER 1: Why are they ---
16 MALE SPEAKER 2: Continuing to fight it? Because

it's ---

MALE SPEAKER 1: Well, I -- like, the whole thing -- the whole thing with you, right, it is clearly fabricated. They -- they could clearly say, "Hey, you went and took pictures of people." Okay.

MALE SPEAKER 2: Actually, I didn't take pictures of the people. I took pictures of the driver's license plates and the cars. The only people I took a picture of was one of Ellington, one of his secretary, and one of his --

what at the time, I didn't know who she was, but now we've learned that she is a fianc , workout partner/girlfriend, depending on who he is talking to. But other than that, all this shit about kids and all the others is made up.

MALE SPEAKER 1: Well, I don't -- I don't doubt that for a second, but -- but be that as it may, what -- what's the -- what are they defending -- what are you -- I guess I'm trying to figure out what he is -- why is he -- why is he in your -- why isn't he getting away from you too? Why -- what's -- why is he in your ---

MALE SPEAKER 2: I -- I think that's why he is doing this. I think he is saying, "Hey, if you come after me for your Delaware actions, and if you bring Herra (phonetic) after me" -- because that's what they said. You know, they said, "Hey, Your Honor, you can't approve this settlement."

16 This is to Judge Jernigan, because Daugherty is just going to
17 take Herra and come after us through Herra.
18 He is going to harass, you know, Ellington. And we
19 all knew it was really all of them. And so they've concocted
20 up -- this whole stalking thing is, in their mind, I guess,
21 some kind of, "Hey, you let us off of ours and we'll let you
22 off yours." And I'm like, "Screw you." You know, I
23 negotiated hard for the Herra thing for a reason.
24 And as you can imagine, we are now -- we got a --
25 we got a meeting with Judge Zern tomorrow to move forward on

1 that. But there's a lot of people with a lot of problems on
2 the Herra front.
3 MALE SPEAKER 1: I mean, look, you -- your thing --
4 your pleading, which was, as I said, pretty good, the one
5 with the -- the crime fraud stuff, if only a quarter of it is
6 -- is -- it's all really bad. If only a quarter of it is
7 like -- somebody has got -- I mean, I can't imagine people
8 don't want to get the fuck out of that.
9 MALE SPEAKER 2: You know, look, and I'm always
10 open -- you know, you call it commercial. I'm always open to
11 a settlement, but the lying has to stop and the defamatory
12 stuff against me has to stop. And then I'll talk to anybody
13 who wants to be a grownup about coming up with a solution,
14 but I'm not going to go away just for the hell of it.
15 MALE SPEAKER 1: Yeah.

MALE SPEAKER 2: You know, so ---

MALE SPEAKER 1: Well, I don't trust Ellington for anything. I think he is -- he is a complete lying, cheating piece of shit.

MALE SPEAKER 2: Yeah. I -- you could put Levington in that group too.

MALE SPEAKER 1: But it seems to me like he is -- is he separating himself from -- I mean, the fact that he wasn't in any of these things, he has got to be telling him ---

MALE SPEAKER 2: I'm telling you the reason why he doesn't -- he hasn't gotten any of those things, is they don't want to put him on the witness stand where he could get caught perjuring and then be under the -- and then get repercussions from Jernigan. That's why.

MALE SPEAKER 1: I mean, I'm -- I'm going to be -- I'm going to be sorely disappointed if on that litigation over the fees she doesn't recommend or refer Dondero for prosecution -- investigation or prosecution. I'm -- I just -- I don't ---

MALE SPEAKER 2: You're talking about the promissory notes, making them all up with Nancy? Or are you talking about ---

MALE SPEAKER 1: No, that one is separate because

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

that one, she didn't actually hear any testimony?

MALE SPEAKER 2: Correct.

MALE SPEAKER 1: So she is already ---

MALE SPEAKER 2: You are talking about the one where he got on there and was just making up and he said he was going to go after her to have her recused again.

MALE SPEAKER 1: Yeah -- yeah.

MALE SPEAKER 2: And he said it was financial mugging and everything else?

MALE SPEAKER 1: Yeah -- yeah. But he -- he flat out lied about all kinds of stuff.

MALE SPEAKER 2: Agreed.

MALE SPEAKER 1: And she -- she looked at him with her mouth open, like ---

MALE SPEAKER 2: Well, she looked at him over her glasses. She wasn't going to -- she wasn't going to give him a single word that he can use on his appeal.

MALE SPEAKER 1: And Waterhouse, I -- I ---

MALE SPEAKER 2: Waterhouse just looked like a Stockholm syndrome.

MALE SPEAKER 1: I'll be disappointed if she doesn't, like, literally, you know, refer them to the Justice Department for perhaps possible perjury. It -- there has to be some -- man, I guess maybe there isn't.

MALE SPEAKER 2: You know, it's funny you mentioned

15 Ellington. We haven't seen Ellington on the stand in her
16 Court since Asis when he got nailed for lying about the
17 HarbourVest stuff, and he stopped going to the Court. Isaac
18 Levington stopped going to the Court and they started sitting
19 JP Savilla in their place. And I haven't seen either one of
20 them, not only on the stand, but in the courtroom ever since.
21 And that was 2019 -- 2018.
22 MALE SPEAKER 1: Yeah.
23 MALE SPEAKER 2: So -- all right. Status on the
24 sales and everything, did you ever get the remaining pieces
25 of -- of Cornerstone done?

1 MALE SPEAKER 1: We are still working on it.
2 MALE SPEAKER 2: Okay.
3 MALE SPEAKER 1: We've got a couple -- there's a
4 couple of very difficult things that we have to deal with.
5 MALE SPEAKER 2: Okay.
6 MALE SPEAKER 1: We have a really good second
7 piece, so we need to be very, very quiet about it. We're
8 very optimistic for the remaining pieces. We have an LOI and
9 we're moving towards a PSA, it -- it's -- so we don't want to
10 mention that anywhere. We just want to keep it really low.
11 MALE SPEAKER 2: The PSA on the -- on the second
12 parts or the first part, or all of it?
13 MALE SPEAKER 1: Second part.

14 MALE SPEAKER 2: Okay. I won't say anything.

15 MALE SPEAKER 1: And -- and so we really -- I mean,

16 that one is the -- the community is too small.

17 MALE SPEAKER 2: Okay.

18 MALE SPEAKER 1: And then we've got a couple of one

19 particularly difficult thing that we're dealing with that

20 we're trying to expedite related to an investigation matter

21 in the company which is a gating item.

22 MALE SPEAKER 2: Oh, you're talking about an

23 internal operational problem?

24 MALE SPEAKER 1: Office of Inspector General.

25 MALE SPEAKER 2: Yeah. We've -- that's -- that

1 could be dealt with, the OIG. I mean, it sounds awful, but

2 it's not uncommon.

3 MALE SPEAKER 1: Yeah. The issue is it's -- you

4 know, you need to -- it's not uncommon. It's not that bad.

5 It's a key -- we think it's a Qui tam, but whatever.

6 MALE SPEAKER 2: Yeah.

7 MALE SPEAKER 1: And the issue is it's a little bit

8 pushing as strength. So we've got a strategy to get there,

9 you know, that'll -- we'll go over the next couple weeks how

10 our strategy looks because we've been providing information

11 and ---

12 MALE SPEAKER 2: Okay.

13 MALE SPEAKER 1: --- you know, there really isn't

anything there, but we're not going to be able to close with that hanging out there.

MALE SPEAKER 2: Understood.

MALE SPEAKER 1: And so that -- that's ---

MALE SPEAKER 2: What about Trustway?

MALE SPEAKER 1: We -- we are -- you know, again, keep it to yourself, please. We are in the market.

MALE SPEAKER 2: Well, that's not a secret to anybody.

MALE SPEAKER 1: Well, we've actually -- we got a real launch. We were ---

MALE SPEAKER 2: Okay -- okay. I was hoping you're

going to say I'm not -- I can't tell you, but I -- I -- you know, don't tell anybody, but it -- we think we can get 500 million for it.

MALE SPEAKER 1: I wish -- I wish.

MALE SPEAKER 2: One time is the backlog, man. One time is the backlog.

MALE SPEAKER 1: Yeah. The hard part for that business is -- is people getting their arms around that level of volatility unless they're in it. So the strategics, you know, obviously have -- have a better insight. You know, the financiability part of it is tougher.

MALE SPEAKER 2: Okay.

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

13 MALE SPEAKER 1: For -- for a PE guy. So that's
14 that's the challenge. But the business is way different than
15 it was in 2018. It's -- it's just a different -- they put in
16 a whole bunch of different stuff that's made it a much, much
17 better business. And -- and, you know, we're -- we're
18 hopeful for ---
19 MALE SPEAKER 2: Well, remember I got to see the
20 entire business plan because of my appraisal rights hearing.
21 Carl Moore had to go through all the things that they were
22 going to do to bring all this value in.
23 MALE SPEAKER 1: Yeah. Well, a lot of that they've
24 changed -- like, they changed and I -- Jeff ---
25 MALE SPEAKER 2: Oh, really? Because that was

1 October 2018.
2 MALE SPEAKER 1: Yeah. They adapted to the market.
3 They did -- they did some of those, but they really have
4 gotten way better at their -- both their -- their payment
5 protection date provisions in their contracts as well as
6 their -- their hedging strategy. And then in addition, they
7 -- they concentrated their buys, so they just have a better
8 relationship with their suppliers.
9 And then they strategically focus themselves on the
10 more value-add customers who are willing to pay a premium,
11 both for the, you know, design execute -- design flexibility,
12 quality, but also the execution and delivery. And -- and

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

notwithstanding -- notwithstanding, you know, some of them were difficult decisions during the -- the real spike and during the COVID. Trustway didn't miss a single contract. Didn't back out with -- didn't back out of one.

MALE SPEAKER 2: Yeah.

MALE SPEAKER 1: And all of the competitors did.

MALE SPEAKER 2: Okay. That's impressive.

MALE SPEAKER 1: And it was -- it wasn't an accident. It was like, all right, this is -- if we're going to have a business that we're selling to people as, "Hey, we're the high-quality guys and we deliver, we're a reliable partner." We got to actually do that. It had -- it had a short-term cost, but the numbers look really good and this

year's performance was great. So hopefully -- hopefully we'll be able to continue.

MALE SPEAKER 2: Got you. Hey, one other thing I -- it just occurred to me, Todd Traver wanted me to ask this. You know, he and I -- I don't know if any of the other former partners hold it, but we have some significant ownership interest in HFP, you know, the equity pilot financial partners, also known as HFT, High Financial Trust.

MALE SPEAKER 1: Yeah.

MALE SPEAKER 2: And that entity I think took a billion-dollar judgment from UBS.

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

MALE SPEAKER 1: Correct.

MALE SPEAKER 2: So I think it's pretty worthless under any scenario as it relates to us as pure equity holders.

MALE SPEAKER 1: Yeah.

MALE SPEAKER 2: The question was, we all have capital accounts that we've getting on our K1s. Are you just going to write those ---

MALE SPEAKER 1: Are you still getting K -- are you still getting K1s on those?

MALE SPEAKER 2: We did last year. I don't know if we're going to get -- you know, we ---

MALE SPEAKER 1: I thought the capital account had gotten zeroed out. I'll have to look at that.

MALE SPEAKER 2: Well, that's what I'm calling about. If you zero out ---

MALE SPEAKER 1: It would be worthless ---

MALE SPEAKER 2: Yeah. If you ---

MALE SPEAKER 1: --- on that already.

MALE SPEAKER 2: Yeah. I mean, for whatever reason Todd accountants thought that the company should do it. And I'm like, you don't have to wait for the company to do it. And I'm like, "Todd, they took a billion-dollar judgment and -- and" ---

MALE SPEAKER 1: They even sent out something in --

in '08 to tell everybody that there was no value. Now the truth was at that point there actually was all the value that ended up getting siphoned up.

MALE SPEAKER 2: Well, and that's just it. Todd is like, well, we had -- we had value based on all the money being siphoned out. But I'm like, okay, well, at this point that was an unsecured claim from the equity and now that UBS comes in with a billion dollars of non-equity based unsecured, I don't think we would -- I think we would get washed out. So ---

MALE SPEAKER 1: Yeah, no doubt about it. Somebody else recently asked us -- a Japanese account about this as well, who hadn't taken it. And we said, look ---

MALE SPEAKER 2: Well, that's why we're asking.

Are you just going to write it down and send out the K1s that -- that demonstrate that?

MALE SPEAKER 1: It's -- it's got a very fucked up management structure. And so while we owned the GP, there's a different board. So Dondero sat on that board by himself and controlled it.

MALE SPEAKER 2: Yeah. I remember that.

MALE SPEAKER 1: Through last year.

MALE SPEAKER 2: All through last year.

MALE SPEAKER 1: Through last year. And so I -- I

got to look at it. It's -- I think our recommendation, I'd
don't know that we'll be able to tell you what -- tell
anybody what to do. I don't think there's any dispute that
the equity is worthless.

MALE SPEAKER 2: I agree -- I agree. I -- I just -- you know, everybody is looking for something that's coming from a third party so that they could just ---

MALE SPEAKER 1: Yeah.

MALE SPEAKER 2: --- do it that way. All right.

MALE SPEAKER 1: Yeah. I think -- let me -- let me say -- I'll look at that for you guys because I think we had -- we gave something that was ---

MALE SPEAKER 2: Some type of notice that just says we've looked at it and it's a write off to zero. You know, that's just what people are looking for.

MALE SPEAKER 1: Okay. Let see what we can -- let me see what we had sent out and I think we had something helpful from Japanese guys.

MALE SPEAKER 2: Okay. Thank you.

MALE SPEAKER 1: Okay. Cool.

MALE SPEAKER 2: Bye.

MALE SPEAKER 1: I will talk to you. Thanks. Bye bye.

(Proceedings concluded at XX:XX)

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

CHANGES AND SIGNATURE

WITNESS NAME: --

DATE OF DEPOSITION: --

PAGE	LINE	CHANGE	REASON

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____

22 _____

23 _____

24 _____

25 _____

1 I, --, have read the foregoing deposition and hereby
2 affix my signature that same is true and correct, except as
3 noted above.
4
5 _____
6 --
7
8 THE STATE OF TEXAS)
9 COUNTY OF DALLAS)

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

Before me, _____, on this day remotely appeared --, known to me (or proved to me under oath or through identity card to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, _____.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires: _____

CAUSE NO. DC-22-00304

SCOTT BYRON ELLINGTON,)
)
Plaintiff,) IN THE DISTRICT COURT
)
V.) 101ST JUDICIAL DISTRICT
)
PATRICK DAUGHERTY) DALLAS COUNTY, TEXAS
)
Defendant.)

file:///C/...20Perkins/Downloads/ellingtonmotiontofiletoday/Exhibit%20F%20-%20Recording%20taken%20on%20May%204,%202022.txt[10/27/2025 3:22:52 PM]

I, Marion Ward, the undersigned Certified Reporter in and for the State of Texas, certify to the following:

That the transcript of the testimony herein to having been present and transcribing from the audio tape provided to the best of my ability.

_____

Marion Ward, Texas CSR No. 876
Expiration Date: 04/30/27
Complete Legal
16414 San Pedro Avenue
Suite 900
San Antonio, Texas 78232
866-806-8265

EXHIBIT
G

CAUSE NO. DC-22-00304

SCOTT BYRON ELLINGTON	)	IN THE DISTRICT COURT
	)	
Plaintiff,	)	
	)	
VS.	)	101ST JUDICIAL DISTRICT
	)	
PATRICK DAUGHERTY,	)	
	)	
Defendant.	)	DALLAS COUNTY, TEXAS

****

ORAL AND VIDEOTAPED DEPOSITION OF

PATRICK DAUGHERTY

AUGUST 28, 2025

****

ORAL AND VIDEOTAPED DEPOSITION OF PATRICK DAUGHERTY, produced as a witness at the instance of the PLAINTIFF, and duly sworn, was taken in the above-styled and numbered cause on the 28th day of August, 2025, from 1:01 p.m. to 5:27 p.m., before Kristi Klund, CSR in and for the State of Texas, reported by machine shorthand, at the law offices of Gray Reed, 1601 Elm Street, Suite 4600, Dallas, Texas, 75201, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

A P P E A R A N C E S

FOR THE PLAINTIFF:
MS. JULIE PETTIT
THE PETTIT LAW FIRM
1900 N. Pearl Street, Suite 1740
Dallas, Texas 75201
jpettit@pettitfirm.com

FOR THE PLAINTIFF:
MR. MICHAEL K. HURST
LYNN PINKER HURST & SCHWEGMANN, LLP
2100 Ross Avenue, Suite 2700
Dallas, Texas 75201
mhurst@lynnllp.com

FOR THE DEFENDANT:
MR. DREW YORK
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
dyork@grayreed.com

ALSO PRESENT: Mr. Joe Willis (Videographer)

INDEX

	PAGE
Appearances	2
Stipulations	
PATRICK DAUGHERTY	
Examination by Ms. Pettit	7
Signature and Changes	223
Reporter's Certificate	225

PREVIOUSLY MARKED EXHIBITS

NO.	DESCRIPTION	PAGE
Exhibit 6	Text messages (DEF000236-DEF0000247)	38
Exhibit 23	Transcript of Proceedings (2/2/21)	173
Exhibit 30	e-mail	92
Exhibit 36	e-mail from Patrick Daugherty (Part 4)(JPS/ELL-011979-011983)	196
Exhibit 40	e-mail from Patrick Daugherty (DEF014516-14517)	193
Exhibit 44	e-mail from Patrick Daugherty (Part 3) (DEF010757-010759)	195
Exhibit 90	Phone image log	212
Exhibit 328	Text messages (DEF000236-000239)	181
Exhibit 377	e-mail from Patrick Daugherty (Part 2) (DEF00729-00730)	194
Exhibit 394	e-mail from Patrick Daugherty (DEF016322-DEF016324)	191
Exhibit 982	Text message chain produced by Mr. Seery	197
Exhibit 1069	Declaration of John A. Morris	150

MARKED EXHIBITS

NO.	DESCRIPTION	PAGE
Exhibit 1200	Plaintiff's First Requests for Production to Patrick Daugherty	75
Exhibit 1201	Defendant's Responses to Plaintiff's First Requests for Production	78
Exhibit 1202	Dallas Business Journal article	95
Exhibit 1203	Series of e-mails (DEF026146-DEF026147)	98
Exhibit 1204	Final Judgment	124
Exhibit 1205	Verified Complaint (NexBank 2017)	132
Exhibit 1206	Stipulation of Dismissal	134

CONTINUED MARKED EXHIBITS

NO.	DESCRIPTION	PAGE
Exhibit 1207	Verified Complaint (2019)	135
Exhibit 1208	Order Granting Motion to Dismiss	137
Exhibit 1209	Proof of Claim	145
Exhibit 1210	Schedules	167
Exhibit 1211	Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty and Authorizing Actions Consistent Therewith	176
Exhibit 1212	Notes made by Julie Pettit	186

THE VIDEOGRAPHER: Good afternoon. We're going on the record at 1:01 p.m. on August the 28th, 2025. Please note the microphones are sensitive and they may pick up whispering and private conversations. Please mute your phones at this time. This is the video recorded deposition of Patrick Daugherty, taken by counsel in the matter of Scott Byron Ellington versus Patrick Daugherty, filed in the District Court of Dallas County, Texas. The Case Docket Number is 22-00304. The location of the deposition is a 1601 Elm Street, Dallas, Texas.

My name is Joe Willis representing Veritext. I am the videographer. The court reporter is Kristi Klund from the firm Veritext. I'm not related to any party in this action, nor am I financially interested in the outcome. If there are objections to proceeding, please state them at the time of your appearance. Will counsel and all present, including -- well, nobody is remote. Please state your appearance and affiliation for the record.

MS. PETTIT: Julie Pettit for the Plaintiff.

MR. HURST: Michael Hurst for the Plaintiff, Scott Ellington.

MR. YORK: Drew York for Patrick

Daugherty. And Ms. Pettit, just a quick clarification question. So the Court's Order on this deposition that we're here today was compartmentalized into two parts. One being that there were questions that were asked at Mr. Daugherty's deposition previously that he was instructed to answer that he did not answer. And the Court has allotted three hours -- up to three hours for those questions for which he's not to be instructed not to answer again. And then the remaining hour and 55 minutes from the original time available for the first deposition may be used and is not limited in scope. Are you intending to segment your examination into --

MS. PETTIT: Yes.

MR. YORK: -- these two parts?

MS. PETTIT: It will be in two parts.

MR. YORK: And which part are you intending to do first?

MS. PETTIT: The unanswered questions.

MR. YORK: Okay. And would you let me -- I mean, I've got the list here but then just so that we can try to keep this on task today, when we get to the points those are done we can --

MS. PETTIT: I will let you know.

MR. YORK: Thank you.

MS. PETTIT: Yep.

MR. YORK: Okay.

PATRICK DAUGHERTY,

after having been first duly sworn, testified as follows:

EXAMINATION

BY MS. PETTIT:

Q. All right. Good afternoon, Mr. Daugherty. Can you please state your name for the record?

A. Patrick Hagaman Daugherty.

Q. And in your last deposition we discussed a company by the name of Corinthian Capital and you were instructed not to answer who the owner was of that company. Can you identify who the owner is?

A. I'm not familiar with Corinthian Capital.

Q. You've never heard of Corinthian Capital?

A. No. You want me to help you? I think it's Corinthian Healthcare.

Q. Okay. Corinthian Healthcare. Who is the owner of Corinthian Healthcare?

A. As I understand it, Judy McNeel.

Q. You said Judy --

A. McNeel?

Q. -- McNeel. And how do you know Ms. McNeel?

A. She is my mother-in-law.

Q. Okay. Does the owner of Corinthian have any knowledge about your investigation of Mr. Ellington in

MR. YORK: Object to form.

A. I guess somebody came down to the lobby to greet me, a baldheaded guy that was tall, and a woman and they brought me up and then I met with Seery up there, some other people one time. I don't know. I just --

Q. (BY MS. PETTIT) Other than Seery, who did you meet with?

A. I mean, do you count these people that -- this one guy was an accountant and I think -- and the woman was I want to say some level of administrative role. I just -- I don't recall.

Q. Anyone else that you know by name?

A. No.

Q. What were the purposes of your meetings at the Highland Capital offices?

A. To discuss settlement issues.

Q. Did you negotiate the agreements while you were there in the office?

MR. YORK: Object to form.

A. I just don't -- I don't recall. I mean, the negotiations took place starting in 2020 and went all the way to November 2021. So various things got determined at various times.

Q. (BY MS. PETTIT) Did you ever sign any agreements while you were there?

A. No. I don't think so. If you have something that can refresh my memory, but I don't recall signing anything.

Q. Did you provide any information, such as the data compilations during any of the meetings at Highland's offices?

A. No. I think that had all been done before for the most part. I mean, I don't know -- some of the data compilations I resent when -- what's his name -- you know, there's two phases. There's the Highland bankruptcy where there was a creditor's committee and then there was the emergence from bankruptcy which I want to say was August 2021. And so, parts of my deal were negotiated prior to that August -- oh, confirmation and emergence. And then after August, the creditor's committee went away and in came the claimant trust and the claimant litigation trustee, if I'm recalling this correctly, and -- so, yeah, I mean some were done before and some were done after.

Q. Did you ever take any of your Ellington Recordings, according to my definition, to your meetings at the Highland offices?

MR. YORK: Object to form.

A. Yeah, I don't know what an Ellington Recording is. I don't think I have any Ellington Recordings.

Q. (BY MS. PETTIT) Okay. So I'll represent to you that we consider your photos that you produced in this case Ellington Recordings, according to our definition in Request For Production?

A. That's a weird definition. I don't agree with it.

Q. Okay. I understand you don't agree with it, but I'm asking you using that definition did you provide or bring any Ellington Recordings with you to the deposition -- excuse me -- to the meeting at Highland's offices?

MR. YORK: Hold on. Object to form, compound.

A. Yeah, look, I'm going to try and just cut through it. Because I don't like the question. It doesn't make much sense, but I didn't bring any pictures of Ellington.

Q. (BY MS. PETTIT) Well, what about the other photos that you produced in this case? Did you take any of those pictures with you?

A. What photos are you talking about?

Q. Any photo that you've produced in this case.

A. I don't -- no. I didn't bring any photos to their offices, no.

Q. Okay.

A. On those occasions.
Q. All right.
A. And by the way, I never sent them any photos. The only photo that was sent was of Ellington standing in the front yard when he'd gone AWOL.
Q. That's the only photo you sent to Jim Seery?
A. Of -- of Ellington? Of Ellington?
Q. Of any photo that was produced in this case.
A. Oh, no. I mean, I sent the Highland employee that was -- what was her name -- Sarah Beth Goldsmith or she was Sara Bell back then. Yeah, she was a Highland employee. Ellington had been fired for over a month and I'm like, oh, by the way, your employee's over here at Ellington's place. And she's like, she's no longer an employee, blah, blah, blah. And that was like two days before; and I think he even mentioned in his deposition it was kind of suspicious why -- why she was over there. I did send him those pictures.
Q. Okay.
A. And -- and, look, if you have others, just remind me. Stop trying to trick me.
Q. Okay. I have not had a chance yet to listen to the exhibit or the document recording that you-all produced labeled DEF53104, but can you just tell me generally what that is?

A. Seery's lying.
Q. And what is he lying about?
A. Not knowing about my investigation, not knowing about multiple things.
Q. And when was this recording made?
A. I want to say May 2022.
Q. So was it before or after his deposition?
A. Who's deposition?
Q. Mr. Seery?
A. Before.
Q. So you have a recording of Mr. Seery prior to his deposition which is now inconsistent, you're saying, with his deposition?
A. Correct.
Q. Okay. And why did you make that recording at the time?
A. Oh, because people lie, deny and die.
Q. What does that mean?
A. What do you think it means? It means what it says. People lie, you know, like Mr. Hurst to a jury or Mr. Seery in this case; and people deny, like Ellington, et cetera and lie and some people die -- some witnesses die over time. And so I made that recording to do -- to just trust but verify, you know. I didn't want there to be a situation where somebody turned on me and said, hey,

I had no idea and that's kind of what happened in that deposition. And we gave him every opportunity to set the record straight and he chose not to.

Q. What do you mean by you gave him every opportunity?

A. We asked him to clarify.

Q. During the deposition?

A. I think so --

Q. Okay.

A. -- yeah, and he dug in -- foolishly so, in my opinion.

Q. Are there any other recordings that you have between you and Mr. Seery?

A. Yes.

MR. YORK: Object to form.

A. I'm sorry, yes.

Q. (BY MS. PETTIT) Do any of them involve Mr. Ellington?

MR. YORK: Objection to form.

A. No.

Q. (BY MS. PETTIT) Is there any other -- was this recording made at an in-person meeting or over the phone?

A. Phone. He was in New York. I was in Dallas.

Q. Do you know if New York is a one or two-party state?

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored

in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Patricia Perkins Mayes on behalf of Julie Pettit
Bar No. 24065971
pperkins@pettitfirm.com
Envelope ID: 107366736
Filing Code Description: Motion - Compel
Filing Description: ENVELOPE #107366736 DOC001
Status as of 10/28/2025 12:51 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Ruth Ann Daniels		rdaniels@grayreed.com	10/28/2025 10:48:12 AM	SENT
Susan Langley		slangley@grayreed.com	10/28/2025 10:48:12 AM	SENT
Nancy Ward		nward@grayreed.com	10/28/2025 10:48:12 AM	SENT
Julie Pettit		jpettit@pettitfirm.com	10/28/2025 10:48:12 AM	SENT
Drake M.Rayshell		drayshell@grayreed.com	10/28/2025 10:48:12 AM	SENT
Julie Pettit		jpettit@pettitfirm.com	10/28/2025 10:48:12 AM	SENT
Beverly Congdon		bcongdon@lynnllp.com	10/28/2025 10:48:12 AM	SENT
Patricia Perkins Mayes		pperkins@pettitfirm.com	10/28/2025 10:48:12 AM	SENT
Michael K.Hurst		mhurst@lynnllp.com	10/28/2025 10:48:12 AM	SENT
Mary GoodrichNix		mnix@lynnllp.com	10/28/2025 10:48:12 AM	SENT
Nathaniel A.Plemons		nplemons@lynnllp.com	10/28/2025 10:48:12 AM	SENT
CH Litigation Services		chefiling@lw.com	10/28/2025 10:48:12 AM	SENT
Shannon McLaughlin		shannon.mclaughlin@lw.com	10/28/2025 10:48:12 AM	SENT
Gina Flores		gflores@lynnllp.com	10/28/2025 10:48:12 AM	SENT
Jamie R.Drillette		jdrillette@lynnllp.com	10/28/2025 10:48:12 AM	SENT
Melange Gavin		Melange.Gavin@lw.com	10/28/2025 10:48:12 AM	SENT
Julie Pettit		jpettit@pettitfirm.com	10/28/2025 10:48:12 AM	SENT
Richard L.Wynne		richard.wynne@hoganlovells.com	10/28/2025 10:48:12 AM	SENT
Edward J.McNeilly		edward.mcneilly@hoganlovells.com	10/28/2025 10:48:12 AM	SENT
Andrew York		dyork@grayreed.com	10/28/2025 10:48:12 AM	SENT
Andy Kim		akim@lynnllp.com	10/28/2025 10:48:12 AM	SENT

EXHIBIT 4

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-sgj
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S REQUESTS FOR THE PRODUCTION OF DOCUMENTS DIRECTED TO PATRICK DAUGHERTY

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034, incorporating by reference Federal Rules of Civil Procedure 26 and 34, Highland Capital Management, L.P., the reorganized debtor in the above-referenced bankruptcy case and plaintiff/counter-defendant in the above-referenced adversary proceeding ("Highland"), hereby demands that Patrick Daughterty ("Daugherty") produce for inspection and copying all non-privileged documents responsive to the requests below (the "Requests") on or before **November 24, 2025, by 5:00 p.m. Central Time**, in connection with the litigation of claims asserted in Highland's *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claims No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Adv. Pro. Docket No. 1] (the "Complaint").

INSTRUCTIONS

1. For each Document (as defined below) withheld by reason of a claim of privilege, provide a privilege log identifying such Document together with: (a) the date of the Document; (b) the identity of the author or preparer; (c) the identity of each person who was sent or furnished with the Document or who received or had possession or custody of the document; (d) a description of the Document, including identification of any attachments or appendices; (e) a statement of the basis of the claim of privilege; and (f) the paragraph of this request to which the document is responsive. In the case of Documents concerning a meeting or conversation, identify all participants in the meeting or conversation.

2. Each Document shall be produced in a fashion that indicates clearly the file in which it was located.

3. If a Document cannot be produced in full, produce it to the extent possible, identify the portion that cannot be produced, and specify the reasons for Your (as defined below) inability to produce the remainder.

4. You are required to produce ESI (as defined below) in searchable form on DVDs, CD-ROMs, or other media to be mutually agreed by the parties.

5. Documents may be produced in paper format or electronically. If Documents are produced electronically, or if any ESI is produced, the following formatting should be used:

- Use .tif format for all Documents that were not originally in Excel format, in which case, use .xls or .xlsx format;
- If possible, without creating undue delay, please produce Documents in Summation-ready DVDs, CD-ROMs, or other media to be mutually agreed by the parties with .tiff and text format, and with a Summation load file; and
- Transmit electronic Documents or ESI on DVDs, CD-ROMs, or other media to be mutually agreed by the parties or use an ftp site upload.

6. These Requests shall be deemed continuing, and supplemental answers shall be required if You directly or indirectly obtain further information after Your initial response to these Requests, as required by Fed. R. Bank. P. 7026(e).

7. The use of either the singular or plural shall not be deemed a limitation. The use of the singular includes the plural, and vice versa.

8. The Requests seek Documents and Communications created, sent, or received between February 27, 2009, and the date of Your responses to these Requests.

DEFINITIONS

1. "2008 Refund" has the meaning ascribed to that term in paragraph 19 of the Complaint.

2. "2008 K-1" has the meaning ascribed to that term in paragraph 22 of the Complaint.

3. "2008 Audit" has the meaning ascribed to that term in paragraph 23 of the Complaint.

4. "Books and Records" means "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system." *See* Settlement Agreement ¶ 8.

5. "Complaint" means the Complaint filed in the above-referenced adversary proceeding.

6. "Compensation Statement" means the *Comprehensive Compensation and Benefits Statement* Highland provided to Daugherty on or about February 27, 2009.

7. "Counterclaims" means the *Counterclaim[s] Against Plaintiff/Counter Defendant Highland Capital Management, L.P.* You asserted on October 3, 2025, in the document filed at Docket No. 39 in the above-referenced adversary proceeding.

8. "Employment Agreement" means any written or oral agreement pertaining to Your employment by Highland that was effective at any time between January 1, 2009, and the date You were no longer employed by Highland.

9. "HERA Release Agreement" means that certain HERA Release Agreement entered into as of November 21, 2021, and executed by Highland, You, Highland Employee Retention Assets, LLC, and Highland ERA Management, LLC.

10. "Highland" means Highland Capital Management, L.P., including its current and former officers, employees, and agents (*e.g.*, outside counsel).

11. "H&W" means the law firm Hunton Andrews Kurth LLP, including its attorneys and representatives.

12. "IRS" means the Internal Revenue Service, including its employees and representatives.

13. "Reserved Claim" has the meaning ascribed to that term in paragraph 8 of the Settlement Agreement.

14. "Seery" means the individual James P. Seery, Jr.

15. "Settlement Agreement" means that certain *Settlement Agreement* executed by Highland on November 21, 2021, and You on November 22, 2021, and any drafts of such Settlement Agreement.

16. "Tax Matters Partner" means the person or entity authorized to act on Highland's behalf with respect to the 2008 Audit.

17. "You" or "Your" means Patrick Hagaman Daugherty and anyone with actual or apparent authority to act on his behalf.

DOCUMENT REQUESTS

Request No. 1:

All Communications with the IRS concerning the 2008 Refund or the 2008 K-1 or the 2008 Audit.

Request No. 2:

All Communications with the Tax Matters Partner concerning the 2008 Refund or the 2008 K-1 or the 2008 Audit.

Request No. 3:

All Communications with H&W concerning the 2008 Refund or the 2008 K-1 or the 2008 Audit.

Request No. 4:

All Communications with Highland concerning the 2008 Refund or the 2008 K-1 or the 2008 Audit.

Request No. 5:

All Documents and Communications concerning the Compensation Statement.

Request No. 6:

Your personal federal income tax return(s), including any amended return(s), for the 2008 tax year, and Your personal federal income tax returns for any other years that concern the 2008 Refund, the 2008 K-1, or the 2008 Audit, if applicable.

Request No. 7:

All Documents and Communications concerning any Employment Agreement.

Request No. 8:

All Documents and Communications concerning the negotiation and drafting of the Settlement Agreement.

Request No. 9:

All audio or other recordings of any conversations between You and Seery, including any purported transcript or summary of any such conversations.

Request No. 10:

All audio or other recordings of any conversation between You and any current or former employee, agent, or representative of Highland concerning the 2008 Refund, the 2008 K-1, and the 2008 Audit, including any purported transcript or summary of any such conversation.

Request No. 11:

All Documents and Communications concerning Your use, application, or investment of the 2008 Refund.

Request No. 12:

All Documents and Communications concerning any contingent liability or contingent obligation You contend relate to the 2008 Refund.

Request No. 13:

All Documents and Communications concerning the Reserved Claim.

Request No. 14:

All Documents and Communications concerning the reserve created by Highland on account of the Reserved Claim.

Request No. 15:

All Documents and Communications concerning any of Your affirmative defenses.

Request No. 16:

All Documents and Communications concerning Your contention that Highland has "refused and failed" to turn over the Books and Records.

Request No. 17:

All Documents and Communications concerning Your contention that You or any of Your controlled affiliates have any claims against any Highland employees, in any capacity, released pursuant to paragraph 6 of the Settlement Agreement.

Request No. 18:

All Documents and Communications concerning Your contention that You or any of Your controlled affiliates have any claims against any Highland employees, in any capacity, released pursuant to paragraph 1 of the HERA Release Agreement.

Request No. 19:

All Documents and Communications concerning Your Counterclaims, including all invoices concerning Your claim for attorneys' fees and any other damages You contend Highland caused by breaching its agreement with You.

Dated: October 24, 2025

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on October 24, 2025, true and correct copies of the foregoing Requests were served via electronic mail on counsel for defendant/counter-plaintiff Patrick Daugherty.

/s/ Zachery Z. Annable
Zachery Z. Annable

EXHIBIT 5

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In Re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. Proc. No. 25-03055-sgj
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S AMENDED RESPONSES TO HIGHLAND CAPITAL MANAGEMENT, L.P.'S REQUESTS FOR THE PRODUCTION OF DOCUMENTS

TO: Plaintiff/Counter-Defendant, Highland Capital Management, L.P., by and through its attorneys of record, Jeffrey N. Pomerantz, John A. Morris, Gregory V. Demo, and Hayley R. Winograd, PACHULSKI STANG ZIEHL & JONES LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067; and Melissa S. Hayward and Zachery Z. Annable, HAYWARD PLLC, 10501 N. Central Expressway, Suite 106, Dallas, Texas 75231.

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, and Rule 7034 of the Federal Bankruptcy Rules of Procedure, and in accordance with the agreements reached between the parties as part of the meet and confer process, Patrick Daugherty ("Daugherty") hereby makes and serves his Amended Responses to certain of Highland Capital Management, L.P.'s Requests for the Production of Documents ("Amended Responses"). Specifically, Daugherty hereby amends his responses to Request Nos. 7 and 11.

RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST NO. 1:

All Communications with the IRS concerning the 2008 Refund or the 2008 K-1 or the 2008 Audit.

RESPONSE: Daugherty will produce responsive documents in accordance with the Court's scheduling order for substantially completing document production by December 12, 2025. [Doc. No. 37 at p. 2.]

REQUEST NO. 2:

All Communications with the Tax Matters Partner concerning the 2008 Refund or the 2008 K-1 or the 2008 Audit.

RESPONSE: After a reasonable inquiry, Daugherty has not identified any responsive documents in his possession, custody or control.

REQUEST NO. 3:

All Communications with H&W concerning the 2008 Refund or the 2008 K-1 or the 2008 Audit.

RESPONSE: After a reasonable inquiry, Daugherty has not identified any responsive documents in his possession, custody or control.

REQUEST NO. 4:

All Communications with Highland concerning the 2008 Refund or the 2008 K-1 or the 2008 Audit.

RESPONSE: Daugherty will produce responsive documents in accordance with the Court's scheduling order for substantially completing document production by December 12, 2025. [Doc. No. 37 at p. 2.]

REQUEST NO. 5:

All Documents and Communications concerning the Compensation Statement.

RESPONSE: Daugherty objects to the portion of this request seeking "document concerning the Compensation Statement" as vague. Fed. R. Civ. P. 34(b)(2). Given that the Compensation Statement is, itself, a document, it is unclear how another document could be concerning that document. Daugherty is unable to search for responsive documents accordingly, but Daugherty agrees to reproduce the Compensation Statement in his possession, custody or control in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.]

Daugherty also objects that this request appears to seek documents and communications that are the subject of the attorney-client and work product privileges. Daugherty is withholding any such documents and communications. Daugherty will produce any non-privileged "communications…concerning the Compensation Statement" in his possession, custody or control in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.]

REQUEST NO. 6:

Your personal federal income tax return(s), including any amended return(s), for the 2008 tax year, and Your personal federal income tax returns for any other years that concern the 2008 Refund, the 2008 K-1, or the 2008 Audit, if applicable.

RESPONSE: Upon entry of a protective order, Daugherty will produce his tax return for the 2008 tax year as well as any other responsive documents.

REQUEST NO. 7:

All Documents and Communications concerning any Employment Agreement.

RESPONSE: Daugherty objects to the request as overbroad, not proportional to the needs of the case, and seeks documents and communications not relevant to the claims or defenses in this adversary proceeding. Fed. R. Civ. P. 26(b)(1). This adversary proceeding is about the 2008 Audit and related tax implications on Daugherty. The Employment Agreement covers a range of topics that have no bearing on the 2008 Audit or this lawsuit and thus, are irrelevant. For example, this request as written would require Daugherty to produce thousands and thousands of pages of documents from the *Highland Capital Management, L.P. v. Daugherty* lawsuit in Texas state court that reached a final, non-appealable judgment in 2016. Moreover, as written, the request would seek communications between Daugherty and his counsel in the Texas state court lawsuit, which would be subject to the attorney-client and work product privileges.

Based on these objections, Daugherty is not producing any responsive documents.

AMENDED RESPONSE: During the meet and confer process, Highland represented that it was narrowing the scope of this Request to "All Documents and Communications concerning the terms of any Employment Agreement between Highland and Daugherty" for the time period January 1, 2008, and the date Daugherty was no longer employed by Highland. Based on this representation, Daugherty withdraws the objections in his original response. Daugherty has not identified any responsive Documents or Communications to the narrowed scope of the Request in his possession, custody or control. Documents responsive to this Request are being produced concurrently herewith.

REQUEST NO. 8:

All Documents and Communications concerning the negotiation and drafting of the Settlement Agreement.

RESPONSE: Daugherty objects to this request because it seeks documents and communications between Daugherty and his counsel concerning the negotiation and drafting of the Settlement Agreement, which are subject to the attorney-client privilege. Such documents and

communications will not be produced. Daugherty will produce any non-privileged documents or communications regarding the negotiation and drafting of the Settlement Agreement that he has in his possession, custody or control in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.]

REQUEST NO. 9:

All audio or other recordings of any conversations between You and Seery, including any purported transcript or summary of any such conversations.

RESPONSE: Daugherty objects that the request seeks documents that are not relevant to the claims or defenses asserted in this adversary proceeding. Fed. R. Civ. P. 26(b)(1). Any recorded conversations have no bearing on Plaintiff's claims in this action, which relate solely to the treatment of Daugherty's Reserved Claim. Based on this objection, Daugherty is not producing any responsive documents.

REQUEST NO. 10:

All audio or other recordings of any conversation between You and any current or former employee, agent, or representative of Highland concerning the 2008 Refund, the 2008 K-1, and the 2008 Audit, including any purported transcript or summary of any such conversation.

RESPONSE: Daugherty objects that the request seeks documents that are not relevant to the claims or defenses asserted in this adversary proceeding. Fed. R. Civ. P. 26(b)(1). Any recorded conversations have no bearing on Plaintiff's claims in this action, which relate solely to the treatment of Daugherty's Reserved Claim. Based on this objection, Daugherty is not producing any responsive documents

REQUEST NO. 11:

All Documents and Communications concerning Your use, application, or investment of the 2008 Refund.

RESPONSE: Daugherty objects to this request to the extent it seeks documents and communications regarding matters not relevant to the immediate lawsuit. Fed. R. Civ. P. 26(b)(1). This lawsuit is entirely about the 2008 Audit and related tax implications on Daugherty. It matters not how Daugherty used or invested the 2008 Refund, despite Plaintiff's claim that Daugherty could not have suffered harm because of the amount of money he could have made—via investment or otherwise—in the period between 2008 and present. Moreover, the request is overbroad and not proportionate to the needs of the case because it would, as written, require Daugherty to turn over every financial document in his possession, custody or control that was created after the 2008 Refund. Daugherty is withholding documents accordingly.

AMENDED RESPONSE: During the meet and confer process, Highland's counsel represented that Hihgland was narrowing the scope of the Request to "All Documents and Communications concerning the initial disposition of the 2008 Refund (i.e.,, was it invested in the market, put in the bank, commingled, etc.)." Daugherty is maintaining his relevance objection to this Request. What Daugherty did with the 2008 Refund is not relevant to Highland's claims seeking to reject, estimate or subordinate Daugherty's Class 8 claim in the Highland Bankruptcy. Daugherty has not identified any responsive Documents or Communications still in his possession, custody or control that concern the initial disposition of the 2008 Refund. Documents responsive to this Request are being produced concurrently herewith.

REQUEST NO. 12:

All Documents and Communications concerning any contingent liability or contingent obligation You contend relate to the 2008 Refund.

RESPONSE: Daugherty will produce any responsive documents in his possession, custody or control in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.]

REQUEST NO. 13:

All Documents and Communications concerning the Reserved Claim.

RESPONSE: Defendant objects to this request because it is overbroad and not proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1), 34(b)(2). The Reserved Claim relates to the amount of money that might be owed to Daugherty based on the outcome of the IRS' audit of the 2008 Refund. The 2008 Refund and the related audit are what this litigation is entirely premised upon. Thus, this request seeks every document regarding the basis of this dispute and also subsumes a number of other requests herein. Daugherty also objects that this request seeks documents and communications between Daugherty and his counsel which are subject to the attorney-client or work product privileges. Daugherty is withholding any such documents and communications. Daugherty refers Plaintiff to the documents that will be produced in response to the other requests in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.]

REQUEST NO. 14:

All Documents and Communications concerning the reserve created by Highland on account of the Reserved Claim.

RESPONSE: Daugherty objects to this request because it seeks, as written, documents and communications between Daugherty and his counsel that are subject to the attorney-client or

work product privileges. Daugherty is withholding any such documents and communications. Daugherty will produce responsive, non-privileged documents in his possession, custody or control in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.].

REQUEST NO. 15:

All Documents and Communications concerning any of Your affirmative defenses.

RESPONSE: Daugherty objects to this request as not reasonably particular because it merely asks for documents related to all affirmative defenses. Fed. R. Civ. P. 34(b). *See Banca Pueyo, S.A. v. Lone Star Fund IX (U.S.), L.P.*, 2020 WL 10046110, at *11 (N.D. Tex. Sept. 25, 2020) (citing *Hinds v. Baker Hughes, Inc.*, 2007 WL 9710939, at *5 (W.D. Tex. Aug. 8, 2007). The law is clear that a party cannot request all documents in support of a defense or contention. Daugherty is withholding documents accordingly.

REQUEST NO. 16:

All Documents and Communications concerning Your contention that Highland has "refused and failed" to turn over the Books and Records.

RESPONSE: Daugherty objects to this request because it seeks, as written, communications between Daugherty and his counsel that are subject to the attorney-client or work product privileges. Daugherty is withholding any such communications. Daugherty will produce responsive, non-privileged documents in his possession, custody or control in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.].

REQUEST NO. 17:

All Documents and Communications concerning Your contention that You or any of Your controlled affiliates have any claims against any Highland employees, in any capacity, released pursuant to paragraph 6 of the Settlement Agreement.

RESPONSE: Daugherty objects to this request because it seeks, as written, communications between Daugherty and his counsel that are subject to the attorney-client or work product privileges. Daugherty is withholding any such communications. Daugherty will produce responsive, non-privileged documents in his possession, custody or control in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.].

REQUEST NO. 18:

All Documents and Communications concerning Your contention that You or any of Your controlled affiliates have any claims against any Highland employees, in any capacity, released pursuant to paragraph 1 of the HERA Release Agreement.

RESPONSE: Daugherty objects to this request because it seeks, as written, communications between Daugherty and his counsel that are subject to the attorney-client or work product privileges. Daugherty is withholding any such communications. Daugherty will produce responsive, non-privileged documents in his possession, custody or control in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.].

REQUEST NO. 19:

All Documents and Communications concerning Your Counterclaims, including all invoices concerning Your claim for attorneys' fees and any other damages You contend Highland caused by breaching its agreement with You.

RESPONSE: Daugherty objects to this request as not reasonably particular because it merely asks for documents concerning Daugherty's Counterclaims. Fed. R. Civ. P. 34(b). *See Banca Pueyo, S.A. v. Lone Star Fund IX (U.S.), L.P.*, 2020 WL 10046110, at *11 (N.D. Tex. Sept. 25, 2020) (citing *Hinds v. Baker Hughes, Inc.*, 2007 WL 9710939, at *5 (W.D. Tex. Aug. 8, 2007). The law is clear that a party cannot request all documents in support of a defense or contention. Daugherty is withholding documents accordingly, but Daugherty will produce redacted attorney's fees invoices concerning his Counterclaim for attorney's fees resulting from Highland's breach of the Settlement Agreement in accordance with the Court's scheduling order for completing document production by December 12, 2025. [Doc. No. 37 at p. 2.]

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Responses was served, via email, on counsel for Highland Capital Management, L.P., on this 12th day of December, 2025.

/s/ Andrew K. York
ANDREW K. YORK

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

In Re: Highland Capital Management, L.P

§

§ Case No 19−34054−SGJ-11

Patrick Daugherty - Appellant §

25-03055

vs §

3:26-CV-02664-S

Highland Capital Management, L.P., et al - Appellee

§

§

[138] Judgment. Entered on 8/7/2026

APPELLANT RECORD

VOLUME 5

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055-bwo
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	INDEX

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the July 24, 2026 *Judgment and Memorandum Opinion* [Docket Nos. 138, 139 in Adversary No. 25-03055-bwo]. *See Notice of Appeal* [Docket No. 142 in Adversary No. 25-03055-bwo].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court erred in disallowing Daugherty's Reserved Claim based on the Employment Agreement's termination provisions, when the Court itself found the 2009 Compensation Statement was incorporated into the Employment Agreement and resolved its ambiguity in Daugherty's favor, concluding that Highland Capital Management, L.P. ("Highland") intended to compensate Daugherty for any material deviation in his 2008 tax refund.

2. Whether the Bankruptcy Court erred in applying the "no further liability or obligation" language of Sections 4.5 and 4.6 of the Employment Agreement to extinguish Daugherty's compensation entitlement under the 2009 Compensation Statement, when that language pertains to severance contingent upon execution of a separation agreement and not to earned compensation that accrued during Daugherty's active employment.

3. Whether the Bankruptcy Court erred in holding that James Dondero's oral promises to cover Daugherty's contingent tax liability were unenforceable under Texas's statute of frauds, Tex. Bus. & Com. Code § 26.01, when Highland had a main purpose of its own in making the promise and when the Court failed to consider Daugherty's continued employment and forbearance as adequate consideration.

4. Whether the Bankruptcy Court erred in denying Daugherty's counterclaim for specific performance of the Settlement Agreement's books-and-records provision by construing that provision through the statutory categories of 6 Del. C. § 18-305(a), rather than by the plain meaning of the negotiated Settlement Agreement requiring Highland to "transfer its *interests* in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims," including "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system."

5. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of

the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

6. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, inter alia, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

Vol. 1
000001
000008

1. Notice of Appeal for Adversary No. 25-03055-bwo [Docket No. 142].

2. The Judgment Order or Decree appealed from: July 24, 2026 – Judgment [Docket No. 138].

000010

3. July 24, 2026 – Memorandum of Opinion [Docket No. 139].

000035

4. Docket Sheet for Adversary Case No. 25-03055-bwo kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 25-03055-bwo:

Vol. 2

Filing Date	Docket No.	Description
05/02/2025	1	(16 pgs; 3 docs) Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/05/2025	2	(4 pgs; 2 docs) Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3	(2 pgs) Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre-trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us-

000053
000064
000073

Vol. 2

		courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025	4	(4 pgs) Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025	5	(13 pgs; 2 docs) Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025	6	(5 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025	7	(10 pgs) Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025	8	(12 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025	9	(13 pgs; 2 docs) Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025	10	(13 pgs; 2 docs) Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025	11	(43 pgs; 5 docs) Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

000076
000079
000092
000097
000107
000119
000132
000145

Vol. 2

07/28/2025 000188	12	(4 pgs) Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025 000192	13	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025 000195	14	(6 pgs; 2 docs) Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025 000201	15	(13 pgs) Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025 000214	16	(5 pgs) Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)

Vol. 2

08/18/2025 000219	17	(3 pgs) Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025 000222	18	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025 000225	19	(225 pgs; 12 docs) Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)
Vol. 3 09/04/2025 000450	20	(48 pgs; 2 docs) Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/05/2025 000498	23	(3 pgs) Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025 000501	24	(5 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)

09/19/2025	25	(9 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
09/23/2025	27	(13 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
09/23/2025	28	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
09/23/2025	30	(6 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02584-E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
09/25/2025	31	(7 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
09/25/2025	32	(4 pgs) BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
09/26/2025	33	(44 pgs; 2 docs) Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
09/29/2025	34	(1 pg) Request for Transcript regarding a hearing held on 9/4/2025. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

vol. 3

09/30/2025 000592	35	(36 pgs) Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025 000628	36	(6 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025 000634	37	(14 pgs) Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025 000648	38	(11 pgs) Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025 000659	39	(45 pgs; 2 docs) Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)

Vol. 3

000704	10/03/2025	40	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
000707	10/03/2025	41	(6 pgs) Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
000713	10/04/2025	42	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
000729	10/04/2025	43	(13 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)

Vol 4

000742	10/06/2025	44	(29 pgs) Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
000771	10/09/2025	45	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
000774	10/09/2025	46	(3 pgs) Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Morris, John)
000777	10/09/2025	47	(3 pgs) Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
000780	10/09/2025	48	(3 pgs) Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Demo, Gregory)
000783	10/13/2025	49	(9 pgs) Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related

		documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50	(1 pg) Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	51	(6 pgs) Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53	(1 pg) Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25-cv-02584-E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54	(1 pg) Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25-cv-02584-E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55	(3 pgs) Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56	(8 pgs) Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57	(7 pgs) DISTRICT COURT Stipulation concerning supplement to record on appeal re: 3:25-cv-02584-E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of

Vol 4

		issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58	ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25-03055, effective immediately. The Bankruptcy Clerk of Court will re-assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025		Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59	(11 pgs) Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60	(14 pgs; 2 docs) Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61	(156 pgs; 7 docs) Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62	(3 pgs) Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).

000819

000830

000844

Vol. 5

001000

Vol 5

12/29/2025 001003	63	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
12/30/2025 001006	64	(19 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/30/2025 001025	65	(3 pgs) Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/30/2025 001028	66	(14 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/31/2025 001042	67	(14 pgs) Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
01/02/2026 001056	68	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
01/05/2026 001072	69	(12 pgs) Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
01/05/2026 001084	70	(10 pgs; 2 docs) Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
01/08/2026 001094	71	(10 pgs) Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion*

Case 3:26-cv-02664-S Document 12-5 Filed 10/27/26 Page 14 of 429 PageID 217

Vol 5			*to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
001104	01/12/2026	72	(4 pgs) Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff

Vol. 5

		Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026 001108	73	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/15/2026 001111	74	(2 pgs) Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)
01/17/2026 001113	76	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
01/23/2026 001117	77	(16 pgs) Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
01/25/2026 001133	78	(18 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
01/26/2026 001151	79	(13 pgs) Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
01/26/2026 001164	80	(13 pgs) Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
01/28/2026 001179	81	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman

Vol 5

		Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026 001192	82	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/09/2026 001207	84	(4 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026 001211	85	(7 pgs) Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026 001218	86	(9 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026 001227	87	(3 pgs) Notice to take deposition of T.J. Liles-Tims filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
02/27/2026 001230	88	(2 pgs) Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026 001232	89	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)

VOTS.

03/10/2026 001236	91	(3 pgs) Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026 001239	93	(5 pgs) Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026 001244	94	(8 pgs) Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026 001252	95	(3 pgs) Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026 001255	96	(10 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)
04/02/2026 001265	97	(8 pgs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)

Vol. 5

001273 04/02/2026	98	(8 pgs) Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
001281 04/08/2026	99	(9 pgs) Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001290 04/10/2026	100	(28 pgs) Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
001318 04/13/2026	101	(28 pgs) Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
001346 04/13/2026	102	(21 pgs) Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
001367 04/14/2026	103	(8 pgs) Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
001375 04/14/2026	104	(8 pgs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
001383 04/15/2026	105	(1782 pgs; 95 docs) Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-01 # 2 Exhibit PD-02 # 3 Exhibit PD-03 # 4 Exhibit PD-04 # 5 Exhibit PD-05 # 6 Exhibit PD-06 # 7 Exhibit PD-07 # 8 List of 20 Largest Creditors PD-08 # 9 Exhibit PD-09 # 10 Exhibit PD-10 # 11 Exhibit PD-11 # 12 Exhibit PD-12 # 13 Exhibit PD-13 # 14 Exhibit PD-14 # 15 Exhibit PD-16 # 16 Exhibit PD-16 # 17 List of 20 Largest Creditors PD-17 # 18 Exhibit PD-18 # 19 Exhibit PD-19 # 20 Exhibit PD-20 # 21 Exhibit PD-21 # 22 Exhibit PD-22 # 23 Exhibit PD-23 # 24 Exhibit PD-24 # 25 Exhibit PD-25 # 26 Exhibit PD-26 # 27 Exhibit PD-27 # 28 Exhibit PD-28 # 29 Exhibit PD-29 # 30 Exhibit PD-30 # 31 Exhibit PD-31 # 32 Exhibit PD-32 # 33 Exhibit PD-33 # 34 Exhibit PD-34 # 35 Exhibit PD-35 # 36 Exhibit PD-36 # 37 Exhibit PD-37 # 38 List of 20 Largest Creditors PD-38 # 39 List of 20 Largest Creditors PD-39 # 40 Exhibit PD-40 # 41 List of 20 Largest Creditors PD-41 # 42 Exhibit PD-42 # 43 Exhibit PD-43 # 44 Exhibit PD-44 # 45 Exhibit PD-45 # 46 Exhibit PD-46 # 47 Exhibit PD-47 # 48 Exhibit PD-48 # 49 Exhibit PD-49 # 50 Exhibit PD-50 # 51 Exhibit PD-51 # 52 Exhibit PD-52 # 53 Exhibit PD-53 # 54 Exhibit PD-54

Vol 5 001383		# 55 Exhibit PD-55 # 56 Exhibit PD-56 # 57 Exhibit PD-57 # 58 Exhibit PD-58 # 59 Exhibit PD-59 # 60 Exhibit PD-60 # 61 Exhibit PD-61 # 62 Exhibit PD-62 # 63 Exhibit PD-63 # 64 Exhibit PD-64 # 65 Exhibit PD-65 # 66 Exhibit PD-66 # 67 Exhibit PD-67 # 68 Exhibit PD-68 # 69 Exhibit PD-69 # 70 Exhibit PD-70 # 71 Exhibit PD-71 # 72 Exhibit PD-72 # 73 Exhibit PD-73 # 74 Exhibit PD-74 # 75 Exhibit PD-75 # 76 Exhibit PD-76 # 77 Exhibit PD-77 # 78 Exhibit PD-78 # 79 Exhibit PD-79 # 80 Exhibit PD-80 # 81 Exhibit PD-81 # 82 Exhibit PD-82 # 83 Exhibit PD-83 # 84 Exhibit PD-84 # 85 Exhibit PD-85 # 86 Exhibit PD-86 # 87 Exhibit PD-87 # 88 Exhibit PD-88 # 89 Exhibit PD-89 # 90 Exhibit PD-90 # 91 Exhibit PD-91 # 92 Exhibit PD-92 # 93 Exhibit PD-93 # 94 Exhibit PD-94) (York, Andrew)
001385	04/15/2026	106 (11 pgs) Joint Motion to file document under seal. *Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (York, Andrew)
Vol. 6 001396 Thru Vol 7	04/15/2026	107 (696 pgs; 66 docs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
Vol 7 002092	04/15/2026	108 (5 pgs) Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
002097	04/15/2026	109 SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital

Vol. 7

		Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	110	SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	111	SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	112	SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	113	SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	114	SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	115	SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	116	SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)

04/15/2026	117	SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118	SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119	SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120	SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121	SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122	SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123	SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124	(30 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)101 Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff

		Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	126	(64 pgs; 5 docs) Support/supplemental document *Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-95 # 2 Exhibit PD-96 # 3 Exhibit PD-97 # 4 Exhibit PD-98) (York, Andrew)
04/16/2026	127	(3 pgs) Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128	(15 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129	(7 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130	(9 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	132	(1 pg) Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133	(1 pg) Request for Transcript regarding a hearing held on 4/17/2026. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

Vol. 8	05/18/2026	135	(327 pgs) Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken under advisement; each side to file proposed Findings of Fact and Conclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
002228			
Vol. 9	06/05/2026	136	(47 pgs) Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
002555			
002602	06/05/2026	137	(19 pgs) Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
002621	07/24/2026	138	(2 pgs) Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
002623	07/24/2026	139	(25 pgs) Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
002648	07/26/2026	140	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002652	07/26/2026	141	(27 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002679	08/07/2026	142	(7 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
002686	08/11/2026	144	(9 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation

		due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146	(4 pgs) DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26-cv-02664-S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147	(4 pgs) BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver of, any and all rights, remedies, challenges and objections.

Respectfully submitted this 2nd day of September, 2026,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of September 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

NOTICE OF HEARING ON
HIGHLAND CAPITAL MANAGEMENT, L.P.'S MOTION TO COMPEL
PRODUCTION OF AUDIO RECORDINGS, TRANSCRIPTS, AND RELATED DOCUMENTS

PLEASE TAKE NOTICE that the following matter has been scheduled for hearing on **Wednesday, January 14, 2026, at 3:30 p.m. (Central Time)** (the "Hearing"):

1. *Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* [Docket No. 60] (the "Motion to Compel").

The Hearing on the Motion to Compel will be held via WebEx videoconference before The Honorable Brad W. Odell, United States Bankruptcy Judge. The WebEx attendance information will be posted to the Court's website, www.txnb.uscourts.gov, under Judge Odell's Hearing Dates and Calendar tab prior to the Hearing.

Patrick Daugherty shall file his opposition (the "Opposition") to the Motion to Compel by **January 5, 2026**. Highland Capital Management, L.P. shall file its reply (the "Reply") to the Opposition by **January 8, 2026**.

[*Remainder of Page Intentionally Blank*]

Dated: December 29, 2025

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on December 29, 2025, a true and correct copy of the foregoing Notice of Hearing was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

COUNSEL TO PATRICK DAUGHERTY

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

NOTICE OF HEARING ON PATRICK DAUGHERTY'S MOTION TO STAY PENDING APPEAL [DOC NO. 33]

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

PLEASE TAKE NOTICE that *Patrick Daugherty's Motion to Stay Pending Appeal* [Doc. No. 33] (the "Motion") has been scheduled for hearing on **Wednesday, January 14, 2026, at 3:30 p.m. (Central Time)** (the "Hearing") in the above-captioned adversary proceeding (the "Adversary Proceeding").

A hearing on the Motion will be held via WebEx videoconference before The Honorable Brad W. Odell, United States Bankruptcy Judge. The WebEx video participation/attendance link for the hearing will be made available at the following link on the Court's website under Judge Odell's Hearing Dates and Calendar tab before the hearing: https://www.txnb.uscourts.gov/judges-info/hearing-dates/judge-odells-hearing-dates

Dated: December 29, 2025.

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
draysehll@grayreed.com

COUNSEL TO PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on all parties or counsel of record herein on this 29th day of December, 2025, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

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

In Re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. Proc. No. 25-03055-sgj
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

AGREED PROTECTIVE ORDER

Plaintiff/Counter-Defendant Highland Capital Management, L.P. ("Plaintiff") and

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Defendant/Counter-Plaintiff Patrick Hagaman Daugherty ("Defendant" or "Daugherty") (collectively, the "Parties") anticipate that Plaintiff and Defendant will produce or use certain Protected Material (as hereinafter defined) during the course of discovery in the above-captioned adversary proceeding (collectively, the "Action").[2] In order to facilitate production of the Protected Material, the Parties stipulate to and request that, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, this Court enter this Agreed Protective Order ("Protective Order"), setting forth the conditions for obtaining, treating, and using Protected Material.

1. PURPOSES AND LIMITATIONS

(a) Protected Material shall be used for the purpose of prosecuting claims and asserting defenses in the Action. Plaintiff shall hold Protected Material in confidence in accordance with the terms and condition set forth in this Protective Order. Protected Material shall not be used for any other purpose, and shall not be used or shown, disseminated, copied, or otherwise disclosed to anyone not entitled to such Protected Material as herein provided. Plaintiff shall take reasonable

[2] Capitalized terms used and not defined here in have the meanings ascribed to such terms in Highland Capital Management, L.P.'s Request for the Production of Documents Directed to Patrick Daugherty, dated October 24, 2025 and delivered to Defendant in connection with the Action (the "RFP").

steps to limit access to Protected Material to those persons entitled to review it in accordance with the terms of this Protective Order.

(b) The Parties acknowledge that the protection the Protective Order affords from public disclosure and use extends only to the specific Protected Material produced by Defendant or his agents to Plaintiff in this Action, except to the extent this Protective Order is modified at a later date.

2. DEFINITIONS

(a) "Outside Counsel" means (i) outside counsel for a Party or its affiliates, as applicable, and (ii) partners, principals, counsel, associates, employees, and contract attorneys of such counsel to whom it is reasonably necessary to disclose the information in connection with the Action, including supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, legal clerks and any copying or clerical litigation support services working at the direction of such counsel, paralegals, and staff.

(b) "Outside Expert or Consultant" means a person retained by Outside Counsel to serve as an expert witness or a litigation consultant in the Action (including any necessary support personnel of such person to whom disclosure is reasonably necessary for this litigation), and who

is not a current employee of a Party.

(c) "Party" means any party to this Action, their respective affiliates and related entities, and its and their respective officers, directors (including, without limitation, any members of the Highland Claimant Trust Oversight Board), trustees (including, without limitation, the trustees of the Highland Claimant Trust), administrators (including, without limitation, the indemnity trust administrator of the Highland Indemnity Trust), employees, consultants, agents, retained experts, and Outside Counsel and their support staffs.

(d) "Non-Protected Material" means any documents or information concerning Defendant's tax returns, partnership distributions, or compensation whilst employed at Highland Capital Management, L.P, that would otherwise meet the definition of "Protected Material" that (a) was or becomes actually published or publicly disseminated other than as a result of a disclosure by Plaintiff in violation of this Protective Order, (b) was in Plaintiff's possession as of the date hereof, including, without limitation, all of Plaintiff's tax returns, Mr. Daugherty's tax returns stored on Plaintiff's system as of the date hereof, accompanying K-1's, employee compensation information, and correspondence and other information and documents relating thereto, or (c) was or becomes available to Plaintiff on a non-confidential basis from a third party source other than

Defendant; provided, that such source is legally permitted to disclose such information to Plaintiff and is not otherwise prohibited from disclosing such information pursuant to any contractual, legal, regulatory, fiduciary, or other obligation.

(e) "Protected Material" means the following documents and information, in each case, to the extent produced by or on behalf of Defendant to Plaintiff in this Action, all information contained therein, and all copies thereof: (i) federal or state tax returns filed by Patrick Daugherty; (ii) communications with the Internal Revenue Service or any corresponding state taxing authority concerning such tax returns; or (iii) financial information (such as documents relating to Daugherty's compensation, bank statements, account records, or other similar documents) concerning Mr. Daugherty, his family or any entities owned in whole or in part by Mr. Daugherty; provided, that, notwithstanding anything in this Protective Order to the contrary, "Protected Material" shall not include any "Non-Protected Material" as defined in this Protective Order or any information that is independently developed by Plaintiff without use or reference to any Protected Material.

(f) "Third Parties" means persons, organizations or entities who are not Plaintiff or Defendant in this Action.

3. SCOPE

(a) The protections conferred by this Protective Order apply to all Protected Material and any documents or information directly extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by Parties or their counsel in court that might reveal Protected Material.

(b) Nothing in this Protective Order shall prevent or restrict Defendant's own disclosure or use of his own Protected Material for any purpose.

(c) Nothing in this Protective Order provides any Party with any broader or expanded rights than it already had concerning the use or disclosure of Non-Protected Material, nor does it obviate the Party from its contractual, legal, regulatory, fiduciary, or other obligations that already existed with respect to Non-Protected Material.

(d) Nothing in this Protective Order shall be construed to prejudice any Party's right to use any Protected Material in any filing in the Action, provided the Party complies with the applicable rules regarding the filing of documents under seal.

4. DURATION

The confidentiality obligations imposed by this Protective Order shall remain in effect until

a final, non-appealable order is entered resolving all claims and counterclaims asserted in the Action.

5. ACCESS TO AND USE OF PROTECTED MATERIAL

(a) Basic Principles. Protected Material shall be used as set forth herein below, and such use shall be solely for the purpose of prosecuting or defending any claims or defenses asserted in the Action or any related appellate proceeding. Protected Material shall not be distributed, disclosed, or made available to any persons, organizations or entities except as expressly provided in this Protective Order.

(b) Secure Storage. Protected Material shall be maintained by Plaintiff using a degree of care that is no less stringent than that used to protect Plaintiff's own confidential information of a similar nature, which in any event, shall be no less than a reasonable degree of care, and Plaintiff shall take reasonable measures to protect the secrecy, and prevent any disclosure, of Protected Material in violation of this Protective Order. For the avoidance of doubt, the Parties acknowledge and agree that Protected Material may be stored and maintained on Plaintiff's data management systems and cloud-based services managed and maintained by Third Parties, and Protected

Material may be transmitted to and from Plaintiff's email system and the email addresses of its representatives.

(c) Legal Advice Based on Protected Material. Subject to the restrictions of Section 5(b) above, this Protective Order does not prevent counsel from advising their clients with respect to the Action based in whole or in part upon any Protected Materials, provided counsel does not disclose Protected Material except as permitted by this Protective Order.

(d) Third Party Discovery. Nothing in this Protective Order shall limit or impair the ability of any Party to obtain and use Third Party discovery. Nothing in this Protective Order shall limit or impair Defendant's right to seek a protective order concerning any material produced by any third party in discovery in the Action that contains Defendant's tax or financial information.

(e) This Order is without prejudice to the right of any Party to seek further or additional protection of any Protected Material or to modify this Order in any way upon reasonable notice to all Parties.

6. ADDITIONAL PROVISIONS RELATING TO PROTECTED MATERIAL

(i) Depositions and Testimony. Parties may

designate testimony given in deposition and in other pretrial or trial proceeding that specifically references Protected Material by indicating on the record when the testimony is given or by sending written notice of the designations within five (5) days of receipt of the transcript. Only those portions of testimony that are appropriately designated shall be covered by this Protective Order.

The use of a document as an exhibit at a deposition shall not affect its designation as Protected Material. Protected Material used during a deposition shall remain subject to the provisions of this Protective Order.

Transcripts containing Protected Material shall have a conspicuous legend on the title page that the transcript contains Protected Material. If the deposition is videotaped, the original and all copies of the videotape shall be marked by the video technician to indicate that the contents of the videotape are subject to this Protective Order, substantially along the lines of "This videotape contains confidential testimony and is not to be viewed or the contents thereof to be displayed or revealed except pursuant to the terms of this Protective Order in this matter or pursuant to written stipulation of the Parties."

7. NOTICE OF DISCLOSURE

(a) Written Notice. Before an Outside Expert or Consultant may receive Protected Material, the Outside Expert or Consultant must sign the "Agreement to Be Bound by this Protective Order" (Exhibit A), a copy of which shall be provided to Defendant at the time the Parties must designate testifying experts under the scheduling order in the Action.

8. SUBPOENAS OR COURT ORDERS

(a) If Protected Material or Non-Protected Material is subpoenaed by any non-party to the Action, court, arbitral, administrative, or legislative body, the Plaintiff shall give prompt written notice thereof to Defendant and to his counsel. If Defendant does not take steps to prevent disclosure of such documents within seven (7) days of the date written notice is given, Plaintiff may produce such Protected Material in response thereto, but shall take reasonable measures to have such documents treated in accordance with terms of this Protective Order.

9. FILING PROTECTED MATERIAL

(a) Absent written permission from Defendant or a court order secured after reasonable notice to Defendant, Plaintiff may not file in the public record any Protected Material.

(b) Plaintiff is authorized under applicable rules to file, describe, or refer to Protected

Material under seal in the Action.

(c) Prior to filing any Non-Protected Material in the Action, Plaintiff's counsel shall give Defendant's counsel 48 hours' notice of the intent to file such material and identify the specific Non-Protected Material that will be filed. Defendant's counsel may file a motion to seal the Non-Protected Material in the Action at any time prior to, or after, Plaintiff's filing of the Non-Protected Material.

10. INADVERTENT FAILURE TO DESIGNATE PROPERLY

(a) The inadvertent failure by Defendant to designate Protected Material shall not waive the protections afforded under this Protective Order; provided that Defendant notifies Plaintiff that such Protected Material is protected under this Protective Order within seven (7) days of Defendant learning of the inadvertent failure to designate. Defendant shall reproduce the Protected Material with a designation within seven (7) days upon its notification to Plaintiff.

11. INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER

(a) In the event of a disclosure of Protected Material pursuant to this Protective Order to any person or persons not authorized to receive such disclosure under this Protective Order, Plaintiff shall promptly notify Outside Counsel for Defendant and provide to such counsel all

known relevant information concerning the nature and circumstances of the disclosure. Plaintiff shall also promptly take reasonable measures to retrieve the unauthorized disclosed Protected Material and to take reasonable steps to prevent any further unauthorized disclosure of Protected Material.

(b) In addition to subsection (a) above, Plaintiff shall also use reasonable efforts to seek to bind such person or party to the terms of this Protective Order and (a) such person shall be informed promptly of all the provisions of this Protective Order by Plaintiff and asked to return the information; (b) such person shall be identified to Defendant; and (c) the person to whom disclosure was made shall be requested to sign Exhibit A hereto. Nothing in this Paragraph shall affect the Defendant's remedies under this Protective Order or otherwise for such unauthorized disclosure.

(c) Plaintiff's unauthorized or inadvertent disclosure does not change the status of Protected Material or waive the right to hold the disclosed document or information as Protected.

12. FINAL DISPOSITION

Unless otherwise ordered or agreed to in writing by Defendants, within sixty (60) days after the final termination of this Action by settlement or exhaustion of all appeals all parties in

receipt of Protected Material shall exercise reasonable efforts to either return such materials and copies thereof to Defendant or destroy such Protected Material and certify that fact in writing. Plaintiff's reasonable efforts shall not require the return or destruction of Protected Material that (i) is stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes and is overwritten in the normal course of business or (ii) is subject to legal hold obligations. Counsel for the Parties shall be entitled to retain copies of court papers (and exhibits thereto), correspondence, pleadings, deposition and trial transcripts (and exhibits thereto), expert reports and attorney work product that contain or refer to Protected Material, provided that such counsel and employees of such counsel shall not disclose such Protected Material to any person, except pursuant to Court order. Nothing shall be interpreted in a manner that would violate any applicable canons of ethics or codes of professional responsibility.

13. MISCELLANEOUS

(a) Right to Further Relief. Nothing in this Protective Order abridges the right of any person to seek its modification by this Court on reasonable notice. By stipulating to this Protective Order, the Parties do not waive the right to argue that certain material may require additional or different confidentiality protections than those set forth herein.

(b) Termination of Matter and Retention of Jurisdiction. The Parties agree that the terms of this Protective Order shall survive and remain in effect after the Final Determination of this Action. The Court shall retain jurisdiction after Final Determination of this Action to hear and resolve any disputes arising out of this Protective Order.

(c) Successors. This Protective Order shall be binding upon the Parties hereto, their attorneys, and their successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and experts, and any persons or organizations over which they have direct control.

(d) Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

(e) Burdens of Proof. Notwithstanding anything to the contrary above, nothing in this Protective Order shall be construed to change the burdens of proof or legal standards applicable in disputes regarding whether particular Protected Material is confidential, whether disclosure should

be restricted, and if so, what restrictions should apply.

(f) Modification by Court. This Protective Order is subject to further court order based upon public policy or other considerations, and this Court may modify this Protective Order *sua sponte* in the interests of justice. The United States Bankruptcy Court for the Northern District of Texas is responsible for the interpretation and enforcement of this Protective Order. All disputes concerning Protected Material, however designated, produced under the protection of this Protective Order shall be resolved by the United States Bankruptcy Court for the Northern District of Texas.

(g) Discovery Rules Remain Unchanged. Nothing herein shall alter or change in any way the discovery provisions of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders. Identification of any individual pursuant to this Protective Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders.

(h) Attorneys and witnesses are prohibited from arguing or implying at trial that a witness for a Party should have or could have received or reviewed information protected by this Order if this Order prohibits that witness from receiving or reviewing such information.

###End of Order###

EXHIBIT A

I,_____, acknowledge and declare that I have received a copy of the Protective Order Regarding the Disclosure and Use of Discovery Materials ("Protective Order") in Adversary Proceeding No. 25-03055-sgj, *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty,* in the United States Bankruptcy Court for the Northern District of Texas. Having read and understood the terms of the Protective Order, I agree to be bound by the terms of the Protective Order.

1. My business address is:

_____

2. My present occupation or job description (including my title) is:

_____

3. I will store and maintain Protected Material in a secure manner as set forth in the Protective Order and that ensures that access is limited to the persons authorized under this Protective Order.

4. Having read the Protective Order, I will comply with all its provisions, including those not explicitly set out in this signed undertaking.

5. I hereby submit to the jurisdiction of the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order.

6. I hereby agree to personally appear before the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order and/or for resolving any issue that might arise in connection with my involvement in this litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature: _____

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

- AND -

PACHULSKI STANG ZIEHL & JONES LLP

By: */s/ John A. Morris*
Jeffrey N. Pomerantz
(admitted *pro hac vice*)
John A. Morris
(admitted *pro hac vice*)
Gregory V. Demo
(admitted *pro hac vice*)
Hayley R. Winograd
(admitted *pro hac vice*)

HAYWARD PLLC

Melissa S. Hayward
Texas Bar No. 24044908
Zachery Z. Annable
Texas Bar No. 24053075
10501 N. Central Expy., Suite 106
Dallas, Texas 75231
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

Telephone: (972) 755-7100
Telephone: (310) 277-6910
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com
mhayward@HaywardFirm.com
zannable@HaywardFirm.com

Counsel to Highland Capital Management, L.P.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S NOTICE OF DEPOSITION OF PATRICK HAGAMAN DAUGHERTY

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure, made applicable herein pursuant to Rule 7030 of the Federal Rules of Bankruptcy Procedure, Highland Capital Management, L.P., the reorganized debtor and plaintiff/counter-defendant in the above-captioned action (the "Adversary Proceeding"), by and through its undersigned counsel, shall take the deposition of Patrick Hagaman Daugherty in connection with the Adversary Proceeding on **January 29, 2026 at 9:30 a.m. Central Time**. The deposition will be taken under oath before a notary public or other person authorized by law to administer oaths and will be visually recorded by video or otherwise.

The deposition will be taken remotely via an online platform such that no one will need to be in the same location as anyone else in order to participate in the deposition. Parties who wish to participate in the deposition should contact John A. Morris, Pachulski Stang Ziehl & Jones LLP, at jmorris@pszjlaw.com for more information regarding participating in this deposition remotely.

Dated: December 30, 2025

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on December 30, 2025, a true and correct copy of the foregoing document was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

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

In Re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. Proc. No. 25-03055-bwo
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

AGREED PROTECTIVE ORDER

Plaintiff/Counter-Defendant Highland Capital Management, L.P. ("Plaintiff") and

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Defendant/Counter-Plaintiff Patrick Hagaman Daugherty ("Defendant" or "Daugherty") (collectively, the "Parties") anticipate that Plaintiff and Defendant will produce or use certain Protected Material (as hereinafter defined) during the course of discovery in the above-captioned adversary proceeding (collectively, the "Action").[2] In order to facilitate production of the Protected Material, the Parties stipulate to and request that, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, this Court enter this Agreed Protective Order ("Protective Order"), setting forth the conditions for obtaining, treating, and using Protected Material.

1. PURPOSES AND LIMITATIONS

(a) Protected Material shall be used for the purpose of prosecuting claims and asserting defenses in the Action. Plaintiff shall hold Protected Material in confidence in accordance with the terms and condition set forth in this Protective Order. Protected Material shall not be used for any other purpose, and shall not be used or shown, disseminated, copied, or otherwise disclosed to anyone not entitled to such Protected Material as herein provided. Plaintiff shall take reasonable steps to limit access to Protected Material to those persons entitled to review it in accordance with the terms of this Protective Order.

(b) The Parties acknowledge that the protection the Protective Order affords from public disclosure and use extends only to the specific Protected Material produced by Defendant or his agents to Plaintiff in this Action, except to the extent this Protective Order is modified at a later date.

2. DEFINITIONS

(a) "Outside Counsel" means (i) outside counsel for a Party or its affiliates, as

[2] Capitalized terms used and not defined here in have the meanings ascribed to such terms in Highland Capital Management, L.P.'s Request for the Production of Documents Directed to Patrick Daugherty, dated October 24, 2025 and delivered to Defendant in connection with the Action (the "RFP").

applicable, and (ii) partners, principals, counsel, associates, employees, and contract attorneys of such counsel to whom it is reasonably necessary to disclose the information in connection with the Action, including supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, legal clerks and any copying or clerical litigation support services working at the direction of such counsel, paralegals, and staff.

(b) "Outside Expert or Consultant" means a person retained by Outside Counsel to serve as an expert witness or a litigation consultant in the Action (including any necessary support personnel of such person to whom disclosure is reasonably necessary for this litigation), and who is not a current employee of a Party.

(c) "Party" means any party to this Action, their respective affiliates and related entities, and its and their respective officers, directors (including, without limitation, any members of the Highland Claimant Trust Oversight Board), trustees (including, without limitation, the trustees of the Highland Claimant Trust), administrators (including, without limitation, the indemnity trust administrator of the Highland Indemnity Trust), employees, consultants, agents, retained experts, and Outside Counsel and their support staffs.

(d) "Non-Protected Material" means any documents or information concerning Defendant's tax returns, partnership distributions, or compensation whilst employed at Highland Capital Management, L.P, that would otherwise meet the definition of "Protected Material" that (a) was or becomes actually published or publicly disseminated other than as a result of a disclosure by Plaintiff in violation of this Protective Order, (b) was in Plaintiff's possession as of the date hereof, including, without limitation, all of Plaintiff's tax returns, Mr. Daugherty's tax returns stored on Plaintiff's system as of the date hereof, accompanying K-1's, employee compensation information, and correspondence and other information and documents relating thereto, or (c) was or becomes available to Plaintiff on a non-confidential basis from a third party source other than

Defendant; provided, that such source is legally permitted to disclose such information to Plaintiff and is not otherwise prohibited from disclosing such information pursuant to any contractual, legal, regulatory, fiduciary, or other obligation.

(e) "Protected Material" means the following documents and information, in each case, to the extent produced by or on behalf of Defendant to Plaintiff in this Action, all information contained therein, and all copies thereof: (i) federal or state tax returns filed by Patrick Daugherty; (ii) communications with the Internal Revenue Service or any corresponding state taxing authority concerning such tax returns; or (iii) financial information (such as documents relating to Daugherty's compensation, bank statements, account records, or other similar documents) concerning Mr. Daugherty, his family or any entities owned in whole or in part by Mr. Daugherty; provided, that, notwithstanding anything in this Protective Order to the contrary, "Protected Material" shall not include any "Non-Protected Material" as defined in this Protective Order or any information that is independently developed by Plaintiff without use or reference to any Protected Material.

(f) "Third Parties" means persons, organizations or entities who are not Plaintiff or Defendant in this Action.

3. SCOPE

(a) The protections conferred by this Protective Order apply to all Protected Material and any documents or information directly extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by Parties or their counsel in court that might reveal Protected Material.

(b) Nothing in this Protective Order shall prevent or restrict Defendant's own disclosure or use of his own Protected Material for any purpose.

(c) Nothing in this Protective Order provides any Party with any broader or expanded rights than it already had concerning the use or disclosure of Non-Protected Material, nor does it obviate the Party from its contractual, legal, regulatory, fiduciary, or other obligations that already existed with respect to Non-Protected Material.

(d) Nothing in this Protective Order shall be construed to prejudice any Party's right to use any Protected Material in any filing in the Action, provided the Party complies with the applicable rules regarding the filing of documents under seal.

4. DURATION

The confidentiality obligations imposed by this Protective Order shall remain in effect until a final, non-appealable order is entered resolving all claims and counterclaims asserted in the Action.

5. ACCESS TO AND USE OF PROTECTED MATERIAL

(a) Basic Principles. Protected Material shall be used as set forth herein below, and such use shall be solely for the purpose of prosecuting or defending any claims or defenses asserted in the Action or any related appellate proceeding. Protected Material shall not be distributed, disclosed, or made available to any persons, organizations or entities except as expressly provided in this Protective Order.

(b) Secure Storage. Protected Material shall be maintained by Plaintiff using a degree of care that is no less stringent than that used to protect Plaintiff's own confidential information of a similar nature, which in any event, shall be no less than a reasonable degree of care, and Plaintiff shall take reasonable measures to protect the secrecy, and prevent any disclosure, of Protected Material in violation of this Protective Order. For the avoidance of doubt, the Parties acknowledge and agree that Protected Material may be stored and maintained on Plaintiff's data management

systems and cloud-based services managed and maintained by Third Parties, and Protected Material may be transmitted to and from Plaintiff's email system and the email addresses of its representatives.

(c) Legal Advice Based on Protected Material. Subject to the restrictions of Section 5(b) above, this Protective Order does not prevent counsel from advising their clients with respect to the Action based in whole or in part upon any Protected Materials, provided counsel does not disclose Protected Material except as permitted by this Protective Order.

(d) Third Party Discovery. Nothing in this Protective Order shall limit or impair the ability of any Party to obtain and use Third Party discovery. Nothing in this Protective Order shall limit or impair Defendant's right to seek a protective order concerning any material produced by any third party in discovery in the Action that contains Defendant's tax or financial information.

(e) This Order is without prejudice to the right of any Party to seek further or additional protection of any Protected Material or to modify this Order in any way upon reasonable notice to all Parties.

6. ADDITIONAL PROVISIONS RELATING TO PROTECTED MATERIAL

(i) Depositions and Testimony. Parties may designate testimony given in deposition and in other pretrial or trial proceeding that specifically references Protected Material by indicating on the record when the testimony is given or by sending written notice of the designations within five (5) days of receipt of the transcript. Only those portions of testimony that are appropriately designated shall be covered by this Protective Order.

The use of a document as an exhibit at a deposition shall not affect its designation as Protected Material. Protected Material used during a deposition shall remain subject to the

provisions of this Protective Order.

Transcripts containing Protected Material shall have a conspicuous legend on the title page that the transcript contains Protected Material. If the deposition is videotaped, the original and all copies of the videotape shall be marked by the video technician to indicate that the contents of the videotape are subject to this Protective Order, substantially along the lines of "This videotape contains confidential testimony and is not to be viewed or the contents thereof to be displayed or revealed except pursuant to the terms of this Protective Order in this matter or pursuant to written stipulation of the Parties."

7. NOTICE OF DISCLOSURE

(a) Written Notice. Before an Outside Expert or Consultant may receive Protected Material, the Outside Expert or Consultant must sign the "Agreement to Be Bound by this Protective Order" (Exhibit A), a copy of which shall be provided to Defendant at the time the Parties must designate testifying experts under the scheduling order in the Action.

8. SUBPOENAS OR COURT ORDERS

(a) If Protected Material or Non-Protected Material is subpoenaed by any non-party to the Action, court, arbitral, administrative, or legislative body, the Plaintiff shall give prompt written notice thereof to Defendant and to his counsel. If Defendant does not take steps to prevent disclosure of such documents within seven (7) days of the date written notice is given, Plaintiff may produce such Protected Material in response thereto, but shall take reasonable measures to have such documents treated in accordance with terms of this Protective Order.

9. FILING PROTECTED MATERIAL

(a) Absent written permission from Defendant or a court order secured after reasonable notice to Defendant, Plaintiff may not file in the public record any Protected Material.

(b) Plaintiff is authorized under applicable rules to file, describe, or refer to Protected Material under seal in the Action.

(c) Prior to filing any Non-Protected Material in the Action, Plaintiff's counsel shall give Defendant's counsel 48 hours' notice of the intent to file such material and identify the specific Non-Protected Material that will be filed. Defendant's counsel may file a motion to seal the Non-Protected Material in the Action at any time prior to, or after, Plaintiff's filing of the Non-Protected Material.

10. INADVERTENT FAILURE TO DESIGNATE PROPERLY

(a) The inadvertent failure by Defendant to designate Protected Material shall not waive the protections afforded under this Protective Order; provided that Defendant notifies Plaintiff that such Protected Material is protected under this Protective Order within seven (7) days of Defendant learning of the inadvertent failure to designate. Defendant shall reproduce the Protected Material with a designation within seven (7) days upon its notification to Plaintiff.

11. INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER

(a) In the event of a disclosure of Protected Material pursuant to this Protective Order to any person or persons not authorized to receive such disclosure under this Protective Order, Plaintiff shall promptly notify Outside Counsel for Defendant and provide to such counsel all known relevant information concerning the nature and circumstances of the disclosure. Plaintiff shall also promptly take reasonable measures to retrieve the unauthorized disclosed Protected Material and to take reasonable steps to prevent any further unauthorized disclosure of Protected Material.

(b) In addition to subsection (a) above, Plaintiff shall also use reasonable efforts to seek to bind such person or party to the terms of this Protective Order and (a) such person shall be

informed promptly of all the provisions of this Protective Order by Plaintiff and asked to return the information; (b) such person shall be identified to Defendant; and (c) the person to whom disclosure was made shall be requested to sign Exhibit A hereto. Nothing in this Paragraph shall affect the Defendant's remedies under this Protective Order or otherwise for such unauthorized disclosure.

(c) Plaintiff's unauthorized or inadvertent disclosure does not change the status of Protected Material or waive the right to hold the disclosed document or information as Protected.

12. FINAL DISPOSITION

Unless otherwise ordered or agreed to in writing by Defendants, within sixty (60) days after the final termination of this Action by settlement or exhaustion of all appeals all parties in receipt of Protected Material shall exercise reasonable efforts to either return such materials and copies thereof to Defendant or destroy such Protected Material and certify that fact in writing. Plaintiff's reasonable efforts shall not require the return or destruction of Protected Material that (i) is stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes and is overwritten in the normal course of business or (ii) is subject to legal hold obligations. Counsel for the Parties shall be entitled to retain copies of court papers (and exhibits thereto), correspondence, pleadings, deposition and trial transcripts (and exhibits thereto), expert reports and attorney work product that contain or refer to Protected Material, provided that such counsel and employees of such counsel shall not disclose such Protected Material to any person, except pursuant to Court order. Nothing shall be interpreted in a manner that would violate any applicable canons of ethics or codes of professional responsibility.

13. MISCELLANEOUS

(a) Right to Further Relief. Nothing in this Protective Order abridges the right of any

person to seek its modification by this Court on reasonable notice. By stipulating to this Protective Order, the Parties do not waive the right to argue that certain material may require additional or different confidentiality protections than those set forth herein.

(b) Termination of Matter and Retention of Jurisdiction. The Parties agree that the terms of this Protective Order shall survive and remain in effect after the Final Determination of this Action. The Court shall retain jurisdiction after Final Determination of this Action to hear and resolve any disputes arising out of this Protective Order.

(c) Successors. This Protective Order shall be binding upon the Parties hereto, their attorneys, and their successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and experts, and any persons or organizations over which they have direct control.

(d) Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

(e) Burdens of Proof. Notwithstanding anything to the contrary above, nothing in this Protective Order shall be construed to change the burdens of proof or legal standards applicable in disputes regarding whether particular Protected Material is confidential, whether disclosure should be restricted, and if so, what restrictions should apply.

(f) Modification by Court. This Protective Order is subject to further court order based upon public policy or other considerations, and this Court may modify this Protective Order *sua sponte* in the interests of justice. The United States Bankruptcy Court for the Northern District of Texas is responsible for the interpretation and enforcement of this Protective Order. All disputes

concerning Protected Material, however designated, produced under the protection of this Protective Order shall be resolved by the United States Bankruptcy Court for the Northern District of Texas.

(g) Discovery Rules Remain Unchanged. Nothing herein shall alter or change in any way the discovery provisions of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders. Identification of any individual pursuant to this Protective Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders.

(h) Attorneys and witnesses are prohibited from arguing or implying at trial that a witness for a Party should have or could have received or reviewed information protected by this Order if this Order prohibits that witness from receiving or reviewing such information.

###End of Order###

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

- AND -

PACHULSKI STANG ZIEHL & JONES LLP

By: */s/ John A. Morris*
Jeffrey N. Pomerantz
(admitted *pro hac vice*)
John A. Morris
(admitted *pro hac vice*)
Gregory V. Demo
(admitted *pro hac vice*)
Hayley R. Winograd
(admitted *pro hac vice*)

HAYWARD PLLC

Melissa S. Hayward
Texas Bar No. 24044908
Zachery Z. Annable
Texas Bar No. 24053075
10501 N. Central Expy., Suite 106
Dallas, Texas 75231
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

Telephone: (972) 755-7100
Telephone: (310) 277-6910
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com
mhayward@HaywardFirm.com
zannable@HaywardFirm.com

Counsel to Highland Capital Management, L.P.

EXHIBIT A

I,_____, acknowledge and declare that I have received a copy of the Protective Order Regarding the Disclosure and Use of Discovery Materials ("Protective Order") in Adversary Proceeding No. 25-03055-sgj, *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty,* in the United States Bankruptcy Court for the Northern District of Texas. Having read and understood the terms of the Protective Order, I agree to be bound by the terms of the Protective Order.

1. My business address is:

_____

2. My present occupation or job description (including my title) is:

_____

3. I will store and maintain Protected Material in a secure manner as set forth in the Protective Order and that ensures that access is limited to the persons authorized under this Protective Order.

4. Having read the Protective Order, I will comply with all its provisions, including those not explicitly set out in this signed undertaking.

5. I hereby submit to the jurisdiction of the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order.

6. I hereby agree to personally appear before the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order and/or for resolving any issue that might arise in connection with my involvement in this litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature: _____

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed December 30, 2025

United States Bankruptcy Judge

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

In Re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. Proc. No. 25-03055-bwo
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

AGREED PROTECTIVE ORDER

Plaintiff/Counter-Defendant Highland Capital Management, L.P. ("Plaintiff") and

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Defendant/Counter-Plaintiff Patrick Hagaman Daugherty ("Defendant" or "Daugherty") (collectively, the "Parties") anticipate that Plaintiff and Defendant will produce or use certain Protected Material (as hereinafter defined) during the course of discovery in the above-captioned adversary proceeding (collectively, the "Action").[2] In order to facilitate production of the Protected Material, the Parties stipulate to and request that, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, this Court enter this Agreed Protective Order ("Protective Order"), setting forth the conditions for obtaining, treating, and using Protected Material.

1. PURPOSES AND LIMITATIONS

(a) Protected Material shall be used for the purpose of prosecuting claims and asserting defenses in the Action. Plaintiff shall hold Protected Material in confidence in accordance with the terms and condition set forth in this Protective Order. Protected Material shall not be used for any other purpose, and shall not be used or shown, disseminated, copied, or otherwise disclosed to anyone not entitled to such Protected Material as herein provided. Plaintiff shall take reasonable steps to limit access to Protected Material to those persons entitled to review it in accordance with the terms of this Protective Order.

(b) The Parties acknowledge that the protection the Protective Order affords from public disclosure and use extends only to the specific Protected Material produced by Defendant or his agents to Plaintiff in this Action, except to the extent this Protective Order is modified at a later date.

2. DEFINITIONS

(a) "Outside Counsel" means (i) outside counsel for a Party or its affiliates, as

[2] Capitalized terms used and not defined here in have the meanings ascribed to such terms in Highland Capital Management, L.P.'s Request for the Production of Documents Directed to Patrick Daugherty, dated October 24, 2025 and delivered to Defendant in connection with the Action (the "RFP").

applicable, and (ii) partners, principals, counsel, associates, employees, and contract attorneys of such counsel to whom it is reasonably necessary to disclose the information in connection with the Action, including supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, legal clerks and any copying or clerical litigation support services working at the direction of such counsel, paralegals, and staff.

(b) "Outside Expert or Consultant" means a person retained by Outside Counsel to serve as an expert witness or a litigation consultant in the Action (including any necessary support personnel of such person to whom disclosure is reasonably necessary for this litigation), and who is not a current employee of a Party.

(c) "Party" means any party to this Action, their respective affiliates and related entities, and its and their respective officers, directors (including, without limitation, any members of the Highland Claimant Trust Oversight Board), trustees (including, without limitation, the trustees of the Highland Claimant Trust), administrators (including, without limitation, the indemnity trust administrator of the Highland Indemnity Trust), employees, consultants, agents, retained experts, and Outside Counsel and their support staffs.

(d) "Non-Protected Material" means any documents or information concerning Defendant's tax returns, partnership distributions, or compensation whilst employed at Highland Capital Management, L.P, that would otherwise meet the definition of "Protected Material" that (a) was or becomes actually published or publicly disseminated other than as a result of a disclosure by Plaintiff in violation of this Protective Order, (b) was in Plaintiff's possession as of the date hereof, including, without limitation, all of Plaintiff's tax returns, Mr. Daugherty's tax returns stored on Plaintiff's system as of the date hereof, accompanying K-1's, employee compensation information, and correspondence and other information and documents relating thereto, or (c) was or becomes available to Plaintiff on a non-confidential basis from a third party source other than

Defendant; provided, that such source is legally permitted to disclose such information to Plaintiff and is not otherwise prohibited from disclosing such information pursuant to any contractual, legal, regulatory, fiduciary, or other obligation.

(e) "Protected Material" means the following documents and information, in each case, to the extent produced by or on behalf of Defendant to Plaintiff in this Action, all information contained therein, and all copies thereof: (i) federal or state tax returns filed by Patrick Daugherty; (ii) communications with the Internal Revenue Service or any corresponding state taxing authority concerning such tax returns; or (iii) financial information (such as documents relating to Daugherty's compensation, bank statements, account records, or other similar documents) concerning Mr. Daugherty, his family or any entities owned in whole or in part by Mr. Daugherty; provided, that, notwithstanding anything in this Protective Order to the contrary, "Protected Material" shall not include any "Non-Protected Material" as defined in this Protective Order or any information that is independently developed by Plaintiff without use or reference to any Protected Material.

(f) "Third Parties" means persons, organizations or entities who are not Plaintiff or Defendant in this Action.

3. SCOPE

(a) The protections conferred by this Protective Order apply to all Protected Material and any documents or information directly extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by Parties or their counsel in court that might reveal Protected Material.

(b) Nothing in this Protective Order shall prevent or restrict Defendant's own disclosure or use of his own Protected Material for any purpose.

(c) Nothing in this Protective Order provides any Party with any broader or expanded rights than it already had concerning the use or disclosure of Non-Protected Material, nor does it obviate the Party from its contractual, legal, regulatory, fiduciary, or other obligations that already existed with respect to Non-Protected Material.

(d) Nothing in this Protective Order shall be construed to prejudice any Party's right to use any Protected Material in any filing in the Action, provided the Party complies with the applicable rules regarding the filing of documents under seal.

4. DURATION

The confidentiality obligations imposed by this Protective Order shall remain in effect until a final, non-appealable order is entered resolving all claims and counterclaims asserted in the Action.

5. ACCESS TO AND USE OF PROTECTED MATERIAL

(a) Basic Principles. Protected Material shall be used as set forth herein below, and such use shall be solely for the purpose of prosecuting or defending any claims or defenses asserted in the Action or any related appellate proceeding. Protected Material shall not be distributed, disclosed, or made available to any persons, organizations or entities except as expressly provided in this Protective Order.

(b) Secure Storage. Protected Material shall be maintained by Plaintiff using a degree of care that is no less stringent than that used to protect Plaintiff's own confidential information of a similar nature, which in any event, shall be no less than a reasonable degree of care, and Plaintiff shall take reasonable measures to protect the secrecy, and prevent any disclosure, of Protected Material in violation of this Protective Order. For the avoidance of doubt, the Parties acknowledge and agree that Protected Material may be stored and maintained on Plaintiff's data management

systems and cloud-based services managed and maintained by Third Parties, and Protected Material may be transmitted to and from Plaintiff's email system and the email addresses of its representatives.

(c) Legal Advice Based on Protected Material. Subject to the restrictions of Section 5(b) above, this Protective Order does not prevent counsel from advising their clients with respect to the Action based in whole or in part upon any Protected Materials, provided counsel does not disclose Protected Material except as permitted by this Protective Order.

(d) Third Party Discovery. Nothing in this Protective Order shall limit or impair the ability of any Party to obtain and use Third Party discovery. Nothing in this Protective Order shall limit or impair Defendant's right to seek a protective order concerning any material produced by any third party in discovery in the Action that contains Defendant's tax or financial information.

(e) This Order is without prejudice to the right of any Party to seek further or additional protection of any Protected Material or to modify this Order in any way upon reasonable notice to all Parties.

6. ADDITIONAL PROVISIONS RELATING TO PROTECTED MATERIAL

(i) Depositions and Testimony. Parties may designate testimony given in deposition and in other pretrial or trial proceeding that specifically references Protected Material by indicating on the record when the testimony is given or by sending written notice of the designations within five (5) days of receipt of the transcript. Only those portions of testimony that are appropriately designated shall be covered by this Protective Order.

The use of a document as an exhibit at a deposition shall not affect its designation as Protected Material. Protected Material used during a deposition shall remain subject to the

provisions of this Protective Order.

Transcripts containing Protected Material shall have a conspicuous legend on the title page that the transcript contains Protected Material. If the deposition is videotaped, the original and all copies of the videotape shall be marked by the video technician to indicate that the contents of the videotape are subject to this Protective Order, substantially along the lines of "This videotape contains confidential testimony and is not to be viewed or the contents thereof to be displayed or revealed except pursuant to the terms of this Protective Order in this matter or pursuant to written stipulation of the Parties."

7. NOTICE OF DISCLOSURE

(a) Written Notice. Before an Outside Expert or Consultant may receive Protected Material, the Outside Expert or Consultant must sign the "Agreement to Be Bound by this Protective Order" (Exhibit A), a copy of which shall be provided to Defendant at the time the Parties must designate testifying experts under the scheduling order in the Action.

8. SUBPOENAS OR COURT ORDERS

(a) If Protected Material or Non-Protected Material is subpoenaed by any non-party to the Action, court, arbitral, administrative, or legislative body, the Plaintiff shall give prompt written notice thereof to Defendant and to his counsel. If Defendant does not take steps to prevent disclosure of such documents within seven (7) days of the date written notice is given, Plaintiff may produce such Protected Material in response thereto, but shall take reasonable measures to have such documents treated in accordance with terms of this Protective Order.

9. FILING PROTECTED MATERIAL

(a) Absent written permission from Defendant or a court order secured after reasonable notice to Defendant, Plaintiff may not file in the public record any Protected Material.

(b) Plaintiff is authorized under applicable rules to file, describe, or refer to Protected Material under seal in the Action.

(c) Prior to filing any Non-Protected Material in the Action, Plaintiff's counsel shall give Defendant's counsel 48 hours' notice of the intent to file such material and identify the specific Non-Protected Material that will be filed. Defendant's counsel may file a motion to seal the Non-Protected Material in the Action at any time prior to, or after, Plaintiff's filing of the Non-Protected Material.

10. INADVERTENT FAILURE TO DESIGNATE PROPERLY

(a) The inadvertent failure by Defendant to designate Protected Material shall not waive the protections afforded under this Protective Order; provided that Defendant notifies Plaintiff that such Protected Material is protected under this Protective Order within seven (7) days of Defendant learning of the inadvertent failure to designate. Defendant shall reproduce the Protected Material with a designation within seven (7) days upon its notification to Plaintiff.

11. INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER

(a) In the event of a disclosure of Protected Material pursuant to this Protective Order to any person or persons not authorized to receive such disclosure under this Protective Order, Plaintiff shall promptly notify Outside Counsel for Defendant and provide to such counsel all known relevant information concerning the nature and circumstances of the disclosure. Plaintiff shall also promptly take reasonable measures to retrieve the unauthorized disclosed Protected Material and to take reasonable steps to prevent any further unauthorized disclosure of Protected Material.

(b) In addition to subsection (a) above, Plaintiff shall also use reasonable efforts to seek to bind such person or party to the terms of this Protective Order and (a) such person shall be

informed promptly of all the provisions of this Protective Order by Plaintiff and asked to return the information; (b) such person shall be identified to Defendant; and (c) the person to whom disclosure was made shall be requested to sign Exhibit A hereto. Nothing in this Paragraph shall affect the Defendant's remedies under this Protective Order or otherwise for such unauthorized disclosure.

(c) Plaintiff's unauthorized or inadvertent disclosure does not change the status of Protected Material or waive the right to hold the disclosed document or information as Protected.

12. FINAL DISPOSITION

Unless otherwise ordered or agreed to in writing by Defendants, within sixty (60) days after the final termination of this Action by settlement or exhaustion of all appeals all parties in receipt of Protected Material shall exercise reasonable efforts to either return such materials and copies thereof to Defendant or destroy such Protected Material and certify that fact in writing. Plaintiff's reasonable efforts shall not require the return or destruction of Protected Material that (i) is stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes and is overwritten in the normal course of business or (ii) is subject to legal hold obligations. Counsel for the Parties shall be entitled to retain copies of court papers (and exhibits thereto), correspondence, pleadings, deposition and trial transcripts (and exhibits thereto), expert reports and attorney work product that contain or refer to Protected Material, provided that such counsel and employees of such counsel shall not disclose such Protected Material to any person, except pursuant to Court order. Nothing shall be interpreted in a manner that would violate any applicable canons of ethics or codes of professional responsibility.

13. MISCELLANEOUS

(a) Right to Further Relief. Nothing in this Protective Order abridges the right of any

person to seek its modification by this Court on reasonable notice. By stipulating to this Protective Order, the Parties do not waive the right to argue that certain material may require additional or different confidentiality protections than those set forth herein.

(b) Termination of Matter and Retention of Jurisdiction. The Parties agree that the terms of this Protective Order shall survive and remain in effect after the Final Determination of this Action. The Court shall retain jurisdiction after Final Determination of this Action to hear and resolve any disputes arising out of this Protective Order.

(c) Successors. This Protective Order shall be binding upon the Parties hereto, their attorneys, and their successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and experts, and any persons or organizations over which they have direct control.

(d) Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

(e) Burdens of Proof. Notwithstanding anything to the contrary above, nothing in this Protective Order shall be construed to change the burdens of proof or legal standards applicable in disputes regarding whether particular Protected Material is confidential, whether disclosure should be restricted, and if so, what restrictions should apply.

(f) Modification by Court. This Protective Order is subject to further court order based upon public policy or other considerations, and this Court may modify this Protective Order *sua sponte* in the interests of justice. The United States Bankruptcy Court for the Northern District of Texas is responsible for the interpretation and enforcement of this Protective Order. All disputes

concerning Protected Material, however designated, produced under the protection of this Protective Order shall be resolved by the United States Bankruptcy Court for the Northern District of Texas.

(g) Discovery Rules Remain Unchanged. Nothing herein shall alter or change in any way the discovery provisions of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders. Identification of any individual pursuant to this Protective Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders.

(h) Attorneys and witnesses are prohibited from arguing or implying at trial that a witness for a Party should have or could have received or reviewed information protected by this Order if this Order prohibits that witness from receiving or reviewing such information.

###End of Order###

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

- AND -

PACHULSKI STANG ZIEHL & JONES LLP

By: */s/ John A. Morris*
Jeffrey N. Pomerantz
(admitted *pro hac vice*)
John A. Morris
(admitted *pro hac vice*)
Gregory V. Demo
(admitted *pro hac vice*)
Hayley R. Winograd
(admitted *pro hac vice*)

HAYWARD PLLC

Melissa S. Hayward
Texas Bar No. 24044908
Zachery Z. Annable
Texas Bar No. 24053075
10501 N. Central Expy., Suite 106
Dallas, Texas 75231
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

Telephone: (972) 755-7100
Telephone: (310) 277-6910
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com
mhayward@HaywardFirm.com
zannable@HaywardFirm.com

Counsel to Highland Capital Management, L.P.

EXHIBIT A

I,_____, acknowledge and declare that I have received a copy of the Protective Order Regarding the Disclosure and Use of Discovery Materials ("Protective Order") in Adversary Proceeding No. 25-03055-sgj, *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty,* in the United States Bankruptcy Court for the Northern District of Texas. Having read and understood the terms of the Protective Order, I agree to be bound by the terms of the Protective Order.

1. My business address is:

_____

2. My present occupation or job description (including my title) is:

_____

3. I will store and maintain Protected Material in a secure manner as set forth in the Protective Order and that ensures that access is limited to the persons authorized under this Protective Order.

4. Having read the Protective Order, I will comply with all its provisions, including those not explicitly set out in this signed undertaking.

5. I hereby submit to the jurisdiction of the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order.

6. I hereby agree to personally appear before the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order and/or for resolving any issue that might arise in connection with my involvement in this litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature: _____

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed December 30, 2025

United States Bankruptcy Judge

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

In Re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. Proc. No. 25-03055-bwo
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

AGREED PROTECTIVE ORDER

Plaintiff/Counter-Defendant Highland Capital Management, L.P. ("Plaintiff") and

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Defendant/Counter-Plaintiff Patrick Hagaman Daugherty ("Defendant" or "Daugherty") (collectively, the "Parties") anticipate that Plaintiff and Defendant will produce or use certain Protected Material (as hereinafter defined) during the course of discovery in the above-captioned adversary proceeding (collectively, the "Action").[2] In order to facilitate production of the Protected Material, the Parties stipulate to and request that, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, this Court enter this Agreed Protective Order ("Protective Order"), setting forth the conditions for obtaining, treating, and using Protected Material.

1. PURPOSES AND LIMITATIONS

(a) Protected Material shall be used for the purpose of prosecuting claims and asserting defenses in the Action. Plaintiff shall hold Protected Material in confidence in accordance with the terms and condition set forth in this Protective Order. Protected Material shall not be used for any other purpose, and shall not be used or shown, disseminated, copied, or otherwise disclosed to anyone not entitled to such Protected Material as herein provided. Plaintiff shall take reasonable steps to limit access to Protected Material to those persons entitled to review it in accordance with the terms of this Protective Order.

(b) The Parties acknowledge that the protection the Protective Order affords from public disclosure and use extends only to the specific Protected Material produced by Defendant or his agents to Plaintiff in this Action, except to the extent this Protective Order is modified at a later date.

2. DEFINITIONS

(a) "Outside Counsel" means (i) outside counsel for a Party or its affiliates, as

[2] Capitalized terms used and not defined here in have the meanings ascribed to such terms in Highland Capital Management, L.P.'s Request for the Production of Documents Directed to Patrick Daugherty, dated October 24, 2025 and delivered to Defendant in connection with the Action (the "RFP").

applicable, and (ii) partners, principals, counsel, associates, employees, and contract attorneys of such counsel to whom it is reasonably necessary to disclose the information in connection with the Action, including supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, legal clerks and any copying or clerical litigation support services working at the direction of such counsel, paralegals, and staff.

(b) "Outside Expert or Consultant" means a person retained by Outside Counsel to serve as an expert witness or a litigation consultant in the Action (including any necessary support personnel of such person to whom disclosure is reasonably necessary for this litigation), and who is not a current employee of a Party.

(c) "Party" means any party to this Action, their respective affiliates and related entities, and its and their respective officers, directors (including, without limitation, any members of the Highland Claimant Trust Oversight Board), trustees (including, without limitation, the trustees of the Highland Claimant Trust), administrators (including, without limitation, the indemnity trust administrator of the Highland Indemnity Trust), employees, consultants, agents, retained experts, and Outside Counsel and their support staffs.

(d) "Non-Protected Material" means any documents or information concerning Defendant's tax returns, partnership distributions, or compensation whilst employed at Highland Capital Management, L.P, that would otherwise meet the definition of "Protected Material" that (a) was or becomes actually published or publicly disseminated other than as a result of a disclosure by Plaintiff in violation of this Protective Order, (b) was in Plaintiff's possession as of the date hereof, including, without limitation, all of Plaintiff's tax returns, Mr. Daugherty's tax returns stored on Plaintiff's system as of the date hereof, accompanying K-1's, employee compensation information, and correspondence and other information and documents relating thereto, or (c) was or becomes available to Plaintiff on a non-confidential basis from a third party source other than

Defendant; provided, that such source is legally permitted to disclose such information to Plaintiff and is not otherwise prohibited from disclosing such information pursuant to any contractual, legal, regulatory, fiduciary, or other obligation.

(e) "Protected Material" means the following documents and information, in each case, to the extent produced by or on behalf of Defendant to Plaintiff in this Action, all information contained therein, and all copies thereof: (i) federal or state tax returns filed by Patrick Daugherty; (ii) communications with the Internal Revenue Service or any corresponding state taxing authority concerning such tax returns; or (iii) financial information (such as documents relating to Daugherty's compensation, bank statements, account records, or other similar documents) concerning Mr. Daugherty, his family or any entities owned in whole or in part by Mr. Daugherty; provided, that, notwithstanding anything in this Protective Order to the contrary, "Protected Material" shall not include any "Non-Protected Material" as defined in this Protective Order or any information that is independently developed by Plaintiff without use or reference to any Protected Material.

(f) "Third Parties" means persons, organizations or entities who are not Plaintiff or Defendant in this Action.

3. SCOPE

(a) The protections conferred by this Protective Order apply to all Protected Material and any documents or information directly extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by Parties or their counsel in court that might reveal Protected Material.

(b) Nothing in this Protective Order shall prevent or restrict Defendant's own disclosure or use of his own Protected Material for any purpose.

(c) Nothing in this Protective Order provides any Party with any broader or expanded rights than it already had concerning the use or disclosure of Non-Protected Material, nor does it obviate the Party from its contractual, legal, regulatory, fiduciary, or other obligations that already existed with respect to Non-Protected Material.

(d) Nothing in this Protective Order shall be construed to prejudice any Party's right to use any Protected Material in any filing in the Action, provided the Party complies with the applicable rules regarding the filing of documents under seal.

4. DURATION

The confidentiality obligations imposed by this Protective Order shall remain in effect until a final, non-appealable order is entered resolving all claims and counterclaims asserted in the Action.

5. ACCESS TO AND USE OF PROTECTED MATERIAL

(a) Basic Principles. Protected Material shall be used as set forth herein below, and such use shall be solely for the purpose of prosecuting or defending any claims or defenses asserted in the Action or any related appellate proceeding. Protected Material shall not be distributed, disclosed, or made available to any persons, organizations or entities except as expressly provided in this Protective Order.

(b) Secure Storage. Protected Material shall be maintained by Plaintiff using a degree of care that is no less stringent than that used to protect Plaintiff's own confidential information of a similar nature, which in any event, shall be no less than a reasonable degree of care, and Plaintiff shall take reasonable measures to protect the secrecy, and prevent any disclosure, of Protected Material in violation of this Protective Order. For the avoidance of doubt, the Parties acknowledge and agree that Protected Material may be stored and maintained on Plaintiff's data management

systems and cloud-based services managed and maintained by Third Parties, and Protected Material may be transmitted to and from Plaintiff's email system and the email addresses of its representatives.

(c) Legal Advice Based on Protected Material. Subject to the restrictions of Section 5(b) above, this Protective Order does not prevent counsel from advising their clients with respect to the Action based in whole or in part upon any Protected Materials, provided counsel does not disclose Protected Material except as permitted by this Protective Order.

(d) Third Party Discovery. Nothing in this Protective Order shall limit or impair the ability of any Party to obtain and use Third Party discovery. Nothing in this Protective Order shall limit or impair Defendant's right to seek a protective order concerning any material produced by any third party in discovery in the Action that contains Defendant's tax or financial information.

(e) This Order is without prejudice to the right of any Party to seek further or additional protection of any Protected Material or to modify this Order in any way upon reasonable notice to all Parties.

6. ADDITIONAL PROVISIONS RELATING TO PROTECTED MATERIAL

(i) Depositions and Testimony. Parties may designate testimony given in deposition and in other pretrial or trial proceeding that specifically references Protected Material by indicating on the record when the testimony is given or by sending written notice of the designations within five (5) days of receipt of the transcript. Only those portions of testimony that are appropriately designated shall be covered by this Protective Order.

The use of a document as an exhibit at a deposition shall not affect its designation as Protected Material. Protected Material used during a deposition shall remain subject to the

provisions of this Protective Order.

Transcripts containing Protected Material shall have a conspicuous legend on the title page that the transcript contains Protected Material. If the deposition is videotaped, the original and all copies of the videotape shall be marked by the video technician to indicate that the contents of the videotape are subject to this Protective Order, substantially along the lines of "This videotape contains confidential testimony and is not to be viewed or the contents thereof to be displayed or revealed except pursuant to the terms of this Protective Order in this matter or pursuant to written stipulation of the Parties."

7. NOTICE OF DISCLOSURE

(a) Written Notice. Before an Outside Expert or Consultant may receive Protected Material, the Outside Expert or Consultant must sign the "Agreement to Be Bound by this Protective Order" (Exhibit A), a copy of which shall be provided to Defendant at the time the Parties must designate testifying experts under the scheduling order in the Action.

8. SUBPOENAS OR COURT ORDERS

(a) If Protected Material or Non-Protected Material is subpoenaed by any non-party to the Action, court, arbitral, administrative, or legislative body, the Plaintiff shall give prompt written notice thereof to Defendant and to his counsel. If Defendant does not take steps to prevent disclosure of such documents within seven (7) days of the date written notice is given, Plaintiff may produce such Protected Material in response thereto, but shall take reasonable measures to have such documents treated in accordance with terms of this Protective Order.

9. FILING PROTECTED MATERIAL

(a) Absent written permission from Defendant or a court order secured after reasonable notice to Defendant, Plaintiff may not file in the public record any Protected Material.

(b) Plaintiff is authorized under applicable rules to file, describe, or refer to Protected Material under seal in the Action.

(c) Prior to filing any Non-Protected Material in the Action, Plaintiff's counsel shall give Defendant's counsel 48 hours' notice of the intent to file such material and identify the specific Non-Protected Material that will be filed. Defendant's counsel may file a motion to seal the Non-Protected Material in the Action at any time prior to, or after, Plaintiff's filing of the Non-Protected Material.

10. INADVERTENT FAILURE TO DESIGNATE PROPERLY

(a) The inadvertent failure by Defendant to designate Protected Material shall not waive the protections afforded under this Protective Order; provided that Defendant notifies Plaintiff that such Protected Material is protected under this Protective Order within seven (7) days of Defendant learning of the inadvertent failure to designate. Defendant shall reproduce the Protected Material with a designation within seven (7) days upon its notification to Plaintiff.

11. INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER

(a) In the event of a disclosure of Protected Material pursuant to this Protective Order to any person or persons not authorized to receive such disclosure under this Protective Order, Plaintiff shall promptly notify Outside Counsel for Defendant and provide to such counsel all known relevant information concerning the nature and circumstances of the disclosure. Plaintiff shall also promptly take reasonable measures to retrieve the unauthorized disclosed Protected Material and to take reasonable steps to prevent any further unauthorized disclosure of Protected Material.

(b) In addition to subsection (a) above, Plaintiff shall also use reasonable efforts to seek to bind such person or party to the terms of this Protective Order and (a) such person shall be

informed promptly of all the provisions of this Protective Order by Plaintiff and asked to return the information; (b) such person shall be identified to Defendant; and (c) the person to whom disclosure was made shall be requested to sign Exhibit A hereto. Nothing in this Paragraph shall affect the Defendant's remedies under this Protective Order or otherwise for such unauthorized disclosure.

(c) Plaintiff's unauthorized or inadvertent disclosure does not change the status of Protected Material or waive the right to hold the disclosed document or information as Protected.

12. FINAL DISPOSITION

Unless otherwise ordered or agreed to in writing by Defendants, within sixty (60) days after the final termination of this Action by settlement or exhaustion of all appeals all parties in receipt of Protected Material shall exercise reasonable efforts to either return such materials and copies thereof to Defendant or destroy such Protected Material and certify that fact in writing. Plaintiff's reasonable efforts shall not require the return or destruction of Protected Material that (i) is stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes and is overwritten in the normal course of business or (ii) is subject to legal hold obligations. Counsel for the Parties shall be entitled to retain copies of court papers (and exhibits thereto), correspondence, pleadings, deposition and trial transcripts (and exhibits thereto), expert reports and attorney work product that contain or refer to Protected Material, provided that such counsel and employees of such counsel shall not disclose such Protected Material to any person, except pursuant to Court order. Nothing shall be interpreted in a manner that would violate any applicable canons of ethics or codes of professional responsibility.

13. MISCELLANEOUS

(a) Right to Further Relief. Nothing in this Protective Order abridges the right of any

person to seek its modification by this Court on reasonable notice. By stipulating to this Protective Order, the Parties do not waive the right to argue that certain material may require additional or different confidentiality protections than those set forth herein.

(b) Termination of Matter and Retention of Jurisdiction. The Parties agree that the terms of this Protective Order shall survive and remain in effect after the Final Determination of this Action. The Court shall retain jurisdiction after Final Determination of this Action to hear and resolve any disputes arising out of this Protective Order.

(c) Successors. This Protective Order shall be binding upon the Parties hereto, their attorneys, and their successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and experts, and any persons or organizations over which they have direct control.

(d) Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

(e) Burdens of Proof. Notwithstanding anything to the contrary above, nothing in this Protective Order shall be construed to change the burdens of proof or legal standards applicable in disputes regarding whether particular Protected Material is confidential, whether disclosure should be restricted, and if so, what restrictions should apply.

(f) Modification by Court. This Protective Order is subject to further court order based upon public policy or other considerations, and this Court may modify this Protective Order *sua sponte* in the interests of justice. The United States Bankruptcy Court for the Northern District of Texas is responsible for the interpretation and enforcement of this Protective Order. All disputes

concerning Protected Material, however designated, produced under the protection of this Protective Order shall be resolved by the United States Bankruptcy Court for the Northern District of Texas.

(g) Discovery Rules Remain Unchanged. Nothing herein shall alter or change in any way the discovery provisions of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders. Identification of any individual pursuant to this Protective Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders.

(h) Attorneys and witnesses are prohibited from arguing or implying at trial that a witness for a Party should have or could have received or reviewed information protected by this Order if this Order prohibits that witness from receiving or reviewing such information.

###End of Order###

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

- AND -

PACHULSKI STANG ZIEHL & JONES LLP

By: */s/ John A. Morris*
Jeffrey N. Pomerantz
(admitted *pro hac vice*)
John A. Morris
(admitted *pro hac vice*)
Gregory V. Demo
(admitted *pro hac vice*)
Hayley R. Winograd
(admitted *pro hac vice*)

HAYWARD PLLC

Melissa S. Hayward
Texas Bar No. 24044908
Zachery Z. Annable
Texas Bar No. 24053075
10501 N. Central Expy., Suite 106
Dallas, Texas 75231
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

Telephone: (972) 755-7100
Telephone: (310) 277-6910
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com
mhayward@HaywardFirm.com
zannable@HaywardFirm.com

Counsel to Highland Capital Management, L.P.

EXHIBIT A

I,_____, acknowledge and declare that I have received a copy of the Protective Order Regarding the Disclosure and Use of Discovery Materials ("Protective Order") in Adversary Proceeding No. 25-03055-sgj, *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty,* in the United States Bankruptcy Court for the Northern District of Texas. Having read and understood the terms of the Protective Order, I agree to be bound by the terms of the Protective Order.

1. My business address is:

_____

2. My present occupation or job description (including my title) is:

_____

3. I will store and maintain Protected Material in a secure manner as set forth in the Protective Order and that ensures that access is limited to the persons authorized under this Protective Order.

4. Having read the Protective Order, I will comply with all its provisions, including those not explicitly set out in this signed undertaking.

5. I hereby submit to the jurisdiction of the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order.

6. I hereby agree to personally appear before the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order and/or for resolving any issue that might arise in connection with my involvement in this litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature: _____

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Dec 31, 2025 Form ID: pdf001 Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 02, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Dec 31 2025 21:26:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Dec 31 2025 21:26:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Dec 31 2025 21:26:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Dec 31 2025 21:26:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 02, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on December 31, 2025 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S RESPONSE TO HIGHLAND'S MOTION TO COMPEL

Subject to his pending Motion to Stay, Defendant/Counter-Plaintiff Patrick Daugherty files this Response to Highland's Motion to Compel [Doc. No. 60] and would show the Court as follows:

PRELIMINARY STATEMENT

1. Highland seeks the production of recorded conversations between Daugherty and James Seery, Highland's CEO. The Court should deny Highland's Motion for two reasons. First, the discovery Highland seeks is irrelevant to the claims and defenses of this action. This dispute centers on two topics: (a) the amount and validity of Daugherty's bankruptcy claim, and (b) Daugherty's counterclaim for the production of Highland Employee Retention Assets, LLC's ("HERA") books and records. The recordings in Daugherty's possession—described in detail below—do not bear on either of those two topics, and Daugherty did not intend to use them in this adversary proceeding.[2]

2. Second, the recordings would only be used, if at all, for impeachment purposes, and Federal Rule of Civil Procedure 26 explicitly excludes impeachment evidence from all disclosure requirements until it is used. Federal courts also hold the recordings are not discoverable unless and until they are used to impeach Seery. Thus, Daugherty's recordings are not required to be produced at this juncture. As a result, the Court should deny Highland's Motion.

[2] In preparation of this Response, counsel re-reviewed the audio recordings provided to them and determined that one of the recordings contains a limited discussion of Daugherty's requests to Seery about HERA's books and records and Seery's agreement to produce the books and records. Counsel is in the process of processing the recording for production to Highland.

FACTUAL BACKGROUND[3]

3. As the Court is likely aware, the legal disputes surrounding Highland's downfall are abundant and malicious. And for over fifteen years, Daugherty has been the sole individual willing to stand up to Highland—and its former owners Jim Dondero and Mark Okada—and fight for his rights, and the rights of other creditors, in this Court and others. Through these disputes, Daugherty has exposed the fraud of others and has routinely observed adversaries and witnesses making misrepresentations, or inconsistent statements, in court.

4. Jim Dondero and Mark Okada co-founded Highland Capital Management, LP ("Highland") in 1993. They operated Highland with an iron fist. This was evident in their treatment of Highland's employees that has been well-documented in the immense collection of lawsuits involving them since Highland's downfall. In September 2008, Highland took a dramatic turn for the worse because of Dondero and Okada's mismanagement. Highland defaulted on its credit facility, which prompted Highland's lenders to demand a forensic accounting of Highland to investigate where Highland's money—their collateral—had gone. Other investigations resulted in numerous lawsuits against Dondero, Okada, their respective trusts, and various other individuals.

5. During his time at Highland, Daugherty rose to the rank of profits-interest partner, senior portfolio manager, and head of Private Equity. He held these roles from 1998 to 2011. In those roles, Daugherty was instrumental in Highland's success in both the collateralized loan obligation market and the distressed debt market. Despite Highland's default on its own credit facility in 2008, Daugherty remained at the firm and helped save the company from financial ruin. Ultimately, however, Daugherty resigned from Highland in the fall of 2011 because he refused to

[3] All capitalized terms herein shall have the same meaning ascribed to them in Highland's Adversary Complaint against Daugherty [Doc. No. 1].

participate in conduct that would later result in awards of over a billion dollars in damages to investors and creditors for breach of fiduciary duty, willful misconduct, and fraud, among other causes of action.

6. Dondero, Okada, Scott Ellington, Isaac Leventon and others working with them, would later pursue legal actions on behalf of Highland against Daugherty to whitewash willful misconduct, breach of fiduciary duties and/or fraud, captioned *Highland Management, L.P. v. Daugherty*, Cause No. 12- 04005 (the "Texas Lawsuit"). Daugherty responded with counterclaims against Highland, HERA, and others, alleging breach of contract and breach of the covenant of good faith and fair dealing.

7. At trial, Dondero made it a point to let the court and jury know that HERA retained control of "all" of its assets. Dondero testified responding to questions by counsel Michael Hurst as follows:

> Q. Okay. So – so if, if Mr. Daugherty somehow prevails in his lawsuit against Patrick Boyce and Lane Britain and [HERA], what happens to Mr. Daugherty's interest that's being escrowed right now with a third-party escrow agent?
> A. They go to him.
> Q. I'm sorry?
> A. They go to him via to HERA and then to him.

Dondero further testified:

> Q. The escrow, did you just escrow this last month?
> A. No. We've had it segregated at Highland since April when we first put it in and then formalized the escrow. It takes a while to set up an escrow and transfer illiquid assets that have all sorts of transfer limitations.

8. After three weeks of trial, the jury found that HERA, at the direction of Dondero and others from Highland, breached the implied covenant of good faith and fair dealing by adopting a "lose-lose" clause in HERA's company agreement, and that Highland and Dondero had

defamed Daugherty with malice.[4] The jury awarded Daugherty damages against HERA in the amount of $2.6 million, plus interest which remains unpaid. Once the appeals were exhausted in the Texas Lawsuit, Highland (through Dondero, Ellington, Leventon and others) terminated the escrow account and transferred the funds to Highland and away from HERA, where they rightfully belonged.

9. This forced Daugherty to initiate litigation against Highland, HERA, Dondero, Ellington and others in Delaware to try to satisfy his judgment. On the third day of trial, in October 2019, Highland filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Just a few months later, the Highland Creditors Committee sought a change of control over Highland, including seeking to have Seery appointed as an independent director and later as Highland's CEO and CRO.

10. During the course of Highland's bankruptcy, Daugherty wanted to ensure that the bankruptcy estate's value was maximized for the benefit of creditors. Given his longstanding role at Highland, Daugherty knew a substantial amount of information concerning not just the company but also but also the activities of it key figures and facilitators including Dondero, Okada, Ellington and Leventon. Over the course of a number of months, Daugherty provided extensive information to Seery, Marc Kirschner and Highland's litigation counsel relating to the same.

11. On October 15, 2021, Highland filed a lawsuit against Dondero, Ellington and others for various claims, including breaches of fiduciary duty and fraudulent conveyances. That lawsuit included allegations derived from many of the facts and information Daugherty had sent to Seery and Kirschner.

[4] FAC ¶91.

12. In late 2021 Daugherty and Highland reached a settlement resolving almost all of Daugherty's claims against Highland. The Settlement Agreement included cash compensation, Class 8 and Class 9 claims at certain agreed values, and a transfer of all of Highland's interests in HERA and its managing member, ERA Management, LLC, to Daugherty.[5] Highland filed a Notice to Approve the Settlement Agreement in December 2021.

13. Shortly after Highland filed Notice, but before any hearing before the Court, Ellington filed a baseless lawsuit against Daugherty alleging stalking. Ellington then used that lawsuit as the basis for objecting to the Settlement Agreement. [Docket No. 3242 in 19-34054-sgj].

14. During the hearing on the Settlement Agreement, Highland acknowledged that "Dondero, through Highland Capital, engaged in an asset-stripping campaign designed to render Plaintiff judgment-proof, further exposing Highland Capital to liability and unnecessary legal costs." Seery testified that "It actually looks like, frankly, the escrow was never really an escrow, and it was a – it was a fraud from the beginning."

15. It could not be clearer that Ellington's lawsuit against Daugherty was nothing more than a gambit to try to thwart the Settlement Agreement. After Highland and Seery advocated

[5] HERA is currently engaged in litigation with Dondero, Ellington and others in the case styled *Highland Employee Retention Assets LLC v. James Donero, et al*., Civil Action No. 3:24-cv-00498-K, pending in the United States District Court for the Northern District of Texas. That litigation centers on Dondero et al.'s misconduct and fraud among other things in the treatment of the monetary contributions and assets that numerous Highland employees made into retirement vehicle known as HERA. But because of Dondero's and others' underhanded efforts to fraudulently transfer assets to benefit themselves and others, those assets were funneled out of HERA and into various entities and accounts controlled by Dondero, Okada, Ellington and their affiliates. That litigation remains pending since February 29, 2024.

against Ellington's interference, the Court rejected Ellington's gambit and approved the Settlement Agreement in March 2022.[6]

16. The Settlement Agreement also contained one additional pertinent provision: that Daugherty's Reserved Claim would not be litigated by either side until the IRS made a "final determination" concerning the 2008 Audit. In connection therewith, Highland sought multiple agreements from Daugherty that would toll Highland's deadline to object to the Reserved Claim. These were given in exchange for no additional consideration or demands by Daugherty. Despite Highland's promise not to litigate the Reserved Claim until after the 2008 Audit, Highland surreptitiously filed this adversary proceeding while at the same time admitting that the 2008 Audit was not final.

17. Through the litigation that has ensued since Highland's collapse—as well as the litigation involved in Highland's main bankruptcy case—Daugherty has been one of very few individuals willing to stand up to Highland, Dondero, Okada, Ellington, and their enablers. Daugherty endeavored to bring truth into the courts, which necessarily meant that he had to engage in litigation with Highland and its founders. This made him a target of Highland, Dondero, Okada, Ellington, Leventon and their professionals.

18. Because of the bitterness between various constituents, along with the incredible amount of misinformation being spread about him, Daugherty began recording conversations he

[6] Highland's Motion references Ellington's lawsuit against Daugherty but fails to tell the Court that the Fifth Court of Appeals found no evidence that Daugherty engaged in civil stalking. *Daugherty v. Ellington*, No. 05-22-00991-CV, 2024 WL 177482, at *5-6 (Tex. App.—Dallas Jan. 17, 2024, pet. denied). Highland also fails to disclose to the Court that in May 2022 Seery did not "doubt that for a second" that Ellington's allegations against Daugherty were "clearly fabricated," that Seery does not trust Ellington, and he considers Ellington a "complete lying, cheating piece of shit." *See* Highland's Motion at Exhibit 3, Exhibit F thereto [Docket No. 61-3] at 16:18-18:19. Conveniently, in March 2024 Seery changed his tune and called the lawsuit "disturbing" even though he had not looked at any of the evidence (either testimony or documents) in the case. *See generally* Burley Decl. at Ex. 1 (228:19-229:23).

had with various individuals, including Seery. Daugherty did this because he had legitimate concerns that certain individuals would tell him one thing on the phone and then take the opposite position during litigation. He needed to be able to refute the false claims that he anticipated being made. These recordings have been sparse and limited to conversations about Highland, HERA, Dondero, Okada, Ellington, Leventon and other ancillary litigation, and miscellaneous other issues unrelated to this case. To be clear, the recorded conversations in Daugherty's possession do not involve (a) Highland's treatment of Daugherty's bankruptcy claim, (b) the IRS' treatment of Daugherty's 2008 Refund and the 2008 Audit of Highland, or (c) details of Daugherty's counterclaim for HERA's books and records. As such, the recordings have no relevance to this action (other than as potential impeachment evidence if any witnesses or parties speak untruthfully about past events).

ARGUMENT AND AUTHORITIES

19. The discovery that Highland seeks is not relevant. Though broad, the scope of discovery is not unlimited. *See Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978) ("[D]iscovery, like all matters of procedure, has ultimate and necessary boundaries."). Federal Rule of Civil Procedure 26(b) only permits discovery of "non-privileged matter[s] that [are] relevant to any party's claims or defenses and proportional to the needs of the case[.]" Fed. R. Civ. P. 26(b)(1).

20. Furthermore, "Rule 26(b) 'has never been a license to engage in an unwieldy, burdensome, and speculative fishing expedition.'" *Curtis v. Metro. Life Ins. Co.*, No. 3:15-CV-2328-B, 2016 WL 687164, at *4 (N.D. Tex. Feb. 19, 2016) (quoting *Crosby v. La. Health Serv. & Indem. Co.*, 647 F.3d 258, 264 (5th Cir. 2011)). Under Rule 26(b)(1), discoverable matters must be both relevant and proportional to the needs of the case. *See Samsung Elecs. Am., Inc. v. Chung*,

321 F.R.D. 250, 279 (N.D. Tex. 2017). And the "district court must limit otherwise permissible discovery if it determines that 'the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of discovery in resolving the issues.'" *Crosby*, 647 F.3d at 264 (quoting Fed. R. Civ. P. 26(b)(2)(C)(iii)). The guiding principle for discoverability is relevance: what a party seeks ***must be relevant*** to the claims or defenses. That is not the case with what Highland seeks through its motion.

21. Here, Highland seeks the production of various recordings of conversations between Daugherty and Seery that Daugherty has in his possession. Highland speculatively contends that the recordings "***likely*** concern information that goes to the heart of the issues in this Adversary Proceeding." Motion at ¶ 2 (emphasis added). In support of the relevance argument, Highland's argument is two-fold. First, Highland contends that the information is directly relevant because it (wrongly) believes the conversations are about the 2008 Audit or the HERA books and records. *See generally* Motion at ¶¶ 22-24. Second, Highland contends that alternatively, the recordings are relevant because they "concern the litigants and implicate Daugherty's credibility." Motion at ¶ 23. Neither of these arguments are meritorious.

22. **As to relevance**: Highland's adversary claims against Daugherty are predominantly statutory in nature. They address the singular question of: "How should the Court treat Daugherty's claim in the Highland bankruptcy?" That question hinges on whether the IRS has made a "final determination" as to the 2008 Audit of Highland as well as the accompanying analysis of Daugherty's 2008 Refund (which is directly tied to Highland's 2008 tax return and related financials). Even a cursory review of Highland's adversary complaint against Daugherty confirms that the complaint is confined to those issues. The claims themselves do not hinge on

recordings. Moreover, it does not legally matter if the Court finds Daugherty's decision to record conversations to be justified, paranoid, or inappropriate. Instead, all that matters is that the recordings do not contain discussions of the issues of this lawsuit, including Daugherty's counterclaim for HERA's books and records. There is no basis for the Court to find that the recordings in Daugherty's possessions are relevant to the claims and defenses of this lawsuit.

23. **As to impeachment/credibility**: The recordings are not discoverable as credibility or impeachment evidence against Daugherty. The best that Highland can come up with is that the recordings go to Daugherty's credibility because he recorded Seery without his knowledge or consent. This argument is flawed. Daugherty did not need Seery's consent nor did he have to inform him that he was recording the conversations. Both federal and Texas law require only one party's consent to recording a call. *Taylor v. State*, 555 S.W.3d 765, 776 (Tex. App.—Amarillo 2018, pet. ref'd.). Daugherty was in Texas at the time of the calls in question, and Highland has presented no evidence that a two-party consent was required. And notably, Highland itself secretly recorded a portion of an off-record conversation between Daugherty and Dondero during a break in a hearing in the main bankruptcy case without advising either of the recording when no one from Highland participated in that specific conversation. It is Seery's credibility that may be at issue, not Daugherty's.

24. Moreover, any interest Highland has in attempting to use tapes in Daugherty's possession to attack Daugherty's credibility is outweighed by the potential use of those tapes to impeach Seery for any inconsistent statements he makes in this adversary proceeding. In *Ramos v. Capitan Corporation*, the lone case cited by Highland in its Motion on this topic, the court did not focus on instances of recorded conversations and their discoverability, but rather on whether criminal and litigation history were *admissible* under Federal Rule of Evidence 509. *Ramos v.*

Capitan Corp., 2017 WL 1278737, at *3 (W.D. Tex. Feb. 2, 2017). The court discussed the limited scope of Rule 509 and how it applies only to evidence that would demonstrate "inconsistent statements, criminal convictions, proof of bias, or similar material." *Id*. (citing Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure § 2015* (3d ed. 2016)). Importantly, the court went on to state that "'courts that have 'protected impeachment evidence from disclosure have done so because the only practical way to preserve the prophylactic effect of impeachment evidence is to keep its existence as well as its contents unknown.'" *Id*. (quoting *Chiasson v. Zapata Gulf Marine Corp*., 988 F.2d 513, 516 (5th Cir. 1993)). This line of reasoning tracks with the explicit exclusions of Rule 26. In both 26(a)(1)(ii) and (3)—the rules for initial and pretrial disclosures, respectively—impeachment evidence is excluded from disclosure requirements. "Neither rule [referring to Rule 26 and Northern District of Texas Local Rules] requires disclosure or witnesses or documents that will be used only for impeachment." *Eagle Railcar Services-Roscoe, Inc. v. NGL Crude Logistics, LLC*, 2018 WL 2317696, at *19 (N.D. Tex. May 22, 2018).

25. What Highland seeks is production of the tapes so that they can prepare Seery for his testimony and deposition in this case so that he does not trip up. That is like letting the fox guard the hen house. Indeed, courts have dealt with discoverability of impeachment evidence by requiring the party to be impeached to commit to his position through deposition before the impeachment evidence must be produced. *Martin v. Long Island R.R. Co.*, 63 F.R.D. 53 (E.D.N.Y. 1974); *Blyther v. Northern Lines, Inc.*, 61 F.R.D. 610 (E.D. Pa. 1973). And that is how this Court should treat the issue: allow Daugherty to take Seery's deposition, and if there are any inconsistent statements made during the deposition, Daugherty must produce any such recordings to Highland in order to be able to use those prior inconsistent statements at trial.

WHEREFORE, Patrick Daugherty respectfully requests that the Court (a) enter an order denying Highland's Motion to Compel, and (b) grant such other and further relief as may be just and proper.

Dated: January 5, 2026.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 5th day of January 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

DECLARATION OF J. REID BURLEY IN SUPPORT OF PATRICK DAUGHERTY'S RESPONSE TO HIGHLAND'S MOTION TO COMPEL

1. I, J. Reid Burley, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

2. I am an attorney at the law firm of Gray Reed & McGraw LLP, counsel to Patrick Daugherty in the above-captioned adversary proceeding. I submit this declaration in support of Mr. Daugherty's Response to Highland's Motion to Compel [Doc. No. 60] being filed concurrently with this declaration. This declaration is based on my personal knowledge and review of the documents listed below and attached hereto.

3. Attached as Exhibit 1 is a true and correct copy of an excerpt of the deposition transcript of James Seery, current CEO of Highland. This deposition was taken in the state court action of *Scott Byron Ellington v. Patrick Daugherty*, Cause No. DC-22-00304, pending in the Judicial District Court of Dallas County, Texas. The deposition was taken on March 20, 2024, and Mr. Seery was a non-party.

Executed on this 5th day of January, 2026.

/s/ J. Reid Burley
J. Reid Burley

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 5th day of January 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT 1

IN THE DISTRICT COURT
DALLAS COUNTY, TEXAS

----------X

SCOTT BYRON ELLINGTON,

PLAINTIFF,

-against- Cause No.:
DC-22-00304

PATRICK DAUGHERTY,

DEFENDANT.

----------X

DATE: March 20, 2024
TIME: 9:30 A.M.

VIDEOTAPED DEPOSITION of the Non-Party Witness, JAMES SEERY, taken by the Plaintiff, pursuant to a Subpoena and to the Federal Rules of Civil Procedure, held at the offices of Willkie, Farr & Gallagher, LLP, 787 Seventh Avenue, New York, New York 10019, before Karyn Chiusano, a Notary Public of the State of New York.

A P P E A R A N C E S:

THE PETTIT LAW FIRM
Attorneys for the Plaintiff
SCOTT BYRON ELLINGTON
2101 Cedar Springs ~ Suite 1540
Dallas, Texas 75201
BY: JULIE PETTIT, ESQ.
jpettite@pettitfirm.com

LYNN, PINKER, HURST & SCHWEGMANN, LLP
Attorneys for the Plaintiff
SCOTT BYRON ELLINGTON
2100 Ross Avenue ~ Suite 2700
Dallas, Texas 75201
BY: MICHAEL K. HURST, ESQ.
MICHELE NAUDIN, ESQ., via Zoom
mhurst@lynnllp.com
mnaudin@lynnllp.com

GRAY REED
Attorneys for the Defendant
PATRICK DAUGHERTY
1601 Elm Street ~ #4600
Dallas, Texas 75201
BY: DREW YORK, ESQ.
dyork@grayreed.com

WILLKIE, FARR & GALLAGHER, LLP,
Attorneys for the Witness
JAMES SEERY
787 Seventh Avenue
New York, New York 10019
BY: JOSH LEVY, ESQ.
BENJAMIN GITELMAN-FONSECA, ESQ.
MARK STANCIL, ESQ.
JOHN MORRIS, ESQ.
SIMONE MARTON, ESQ.
jlevy@willkie.com
bgitelman-fonseca@willkie.com
mstancil@willkie.com

ALSO PRESENT:
PHIL GLAUBERSON, Videographer
PATRICK DAUGHTERTY, via Zoom
SCOTT BYRON ELLINGTON

* * *

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

* * * *.

THE VIDEOGRAPHER: Good morning.

We are going on the record at 10:14 A.M., March 20, 2024.

Please note that microphones are sensitive and may pick up whispering and private conversations.

Please mute your phones at this time, and place them away from the microphones as they can interfere with the audio.

Audio and video recording will continue to take place unless all parties agree to go off the record.

This is Media Unit 1 of the video-recorded deposition of James Seery, in the matter of Scott Byron Ellington versus Patrick Daugherty, filed in the District Court, 101st Judicial District, Dallas County, Texas, DC-22-00304.

The location of this deposition is Willkie, Farr & Gallagher, LLP, 787 Seventh Avenue, New York, New York.

My name is Phil Glauberson, representing Veritext, and I am the Videographer. The Court Reporter is Karyn Chiusano, from Veritext.

I'm not authorized to administer an

Q. Did Mr. Daugherty ever tell you that he followed Ms. Goldsmith?

A. No.

Q. Are you aware of any evidence that indicates that Mr. Daugherty followed Ms. Goldsmith?

MR. HURST: Objection; speculation, foundation.

A. I -- I -- yeah.

I -- I don't -- I don't -- I don't know. He just sent me the two pictures and said: This is who she is.

And I told him to "cut it out."

Q. Did Mr. Daugherty ever tell you that he followed Mr. Ellington?

A. No.

Q. Did Mr. Daugherty ever tell you that he followed any of Mr. Ellington's family members?

A. No.

Q. You have not done any investigation into the evidence that was -- has been presented in the lawsuit between Mr. Ellington and Mr. Daugherty that related to the Injunction; correct?

A. Did you say "investigation"?

Q. Correct.

You haven't looked at any of the

evidence that was presented, in terms of the testimony itself, or any of the documents that were admitted into evidence at any of the hearings or anything like that; right?

A. I -- I don't -- I don't believe so.

Only what I have been shown here in -- in prep.

Q. Okay.

And so, you have not -- just to be clear: You have not reached a conclusion yourself as to what the facts actually show as to whether or not Mr. Daugherty was invading Mr. Ellington's privacy; correct?

MR. LEVY: Object to form.

A. I'm not -- I'm not quite sure what you're asking me.

Q. You haven't -- in terms of what you have seen in the case, it's just what you have read; correct?

A. Correct.

And the only thing that I can recall, reading directly, was the Appellate opinion.

MR. HURST: Objection; non-responsive.

Q. Okay.

And you -- and you haven't reviewed any

C E R T I F I C A T E

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

I, KARYN CHIUSANO, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose examination is hereinbefore set forth was duly sworn and that such examination is a true record of the testimony given by that witness.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of April, 2024.



KARYN CHIUSANO

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S REPLY IN SUPPORT OF MOTION TO COMPEL PRODUCTION OF AUDIO RECORDINGS, TRANSCRIPTS, AND RELATED DOCUMENTS

Plaintiff/Counter-Defendant Highland Capital Management, L.P., the reorganized debtor ("Highland" or the "Debtor," as applicable), by and through its undersigned counsel, hereby files this reply to *Patrick Daugherty's Response to Highland's Motion to Compel* [Docket No. 69] (the "Response") and in further support of its *Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* [Docket No. 60] (the "Motion").[2] In further support of its Motion, Highland respectfully states as follows:

I. INTRODUCTION

1. The Secret Recordings fall squarely within the scope of discoverable information under Rule 26(b), and Daugherty fails to meet his burden of demonstrating why the Secret Recordings are irrelevant or otherwise objectionable.

2. Daugherty admits he secretly recorded his conversations with Seery, as his "adverse" party, and other Highland constituents, and he does not dispute that those conversations concerned the Bankruptcy Case, Daugherty's proof of claim (including the Reserved Claim), HERA, and the Settlement Agreement. All these topics relate to or could lead to the discovery of admissible evidence that goes to the heart of the issues in this Adversary Proceeding.

3. The Secret Recordings also bear directly on Daugherty's propensity for deception and therefore his credibility as a witness. This type of evidence is plainly discoverable under Rule 26(b). Daugherty's assertion that the Secret Recordings are not discoverable if they bear on credibility is premised on Daugherty's mistaken reliance on Rule 26(a). That rule concerns initial

[2] Capitalized terms used but not defined herein have the meanings ascribed to them in the Motion.

disclosures, not the scope of discovery under Rule 26(b). And while Rule 26(a) exempts from initial disclosures evidence used solely for impeachment, Rule 26(b) has no such exemption.

4. Daugherty should not be able to unilaterally determine relevancy based on secret recordings which only he possesses—particularly where he admits that he created them for the express purpose of playing a game of "gotcha." Daugherty's refusal to produce the Secret Recordings until a later time in the proceeding so that he might be able to use them to impeach Seery (based on what Daugherty asserts is "irrelevant" material) has no basis under any rule, law, or precedent. The Court should exercise its discretion, grant the Motion, and compel Daugherty to immediately disclose all Secret Recordings.[3]

II. REPLY

5. The Secret Recordings plainly fall within the broad scope of relevance under Rule 26(b)(1) because they contain information, or may lead to the discovery of admissible evidence, going to the heart of the issues in this Adversary Proceeding and shed light on Daugherty's deceptive character. Daugherty fails to meet his burden of demonstrating how the information is not relevant or otherwise objectionable. *See Murillo Modular Grp., Ltd. v. Sullivan*, 2016 WL 6139096, at *3 (N.D. Tex. Oct. 20, 2016).

6. Daugherty vaguely maintains that the Requested Information is somehow not relevant under the broad scope of discovery under Rule 26 because (a) the Secret Recordings do not contain information concerning the Adversary Proceeding; and (b) the Secret Recordings supposedly relate to Seery's credibility and are therefore not discoverable. Each of these assertions is meritless.

[3] Daugherty is currently scheduled to take Seery's deposition on Monday, January 19, so time is of the essence.

A. The Secret Recordings Contain Discoverable Information About the Claims and Defenses

7. As discussed in the Motion, the Secret Recordings very likely contain conversations that go to the heart of the issues in this Adversary Proceeding or could otherwise lead to the discovery of admissible evidence. Daugherty admitted in the Stalking Suit that he has multiple recordings of Seery and that these Secret Recordings took place during the Bankruptcy Case in 2022 when Daugherty was "adverse" to Seery:

> It was determined by Daugherty and his Counsel that the Recordings should be produced after it had recently percolated up for review and discussion in connection with unrelated proceedings before the Bankruptcy Court . . . where Daugherty is now adverse to Seery and [Highland] in connection with Daugherty's proof of claim.

Winograd Dec. Exhibit 1, ¶ 17; *see also* Winograd Dec. Exhibit 2 at 105:12-14 (Daugherty admitting under oath that, in addition to the recordings he took of Seery on May 4, 2022, Daugherty has other secret recordings between himself and Seery). Daugherty further admits in his Response that he secretly recorded various "constituents" in the Bankruptcy Case, including Seery, because of "bitterness" and that such recordings are "conversations about Highland, HERA, Dondero (the former Highland CEO and founding partner), Okada (a former Highland founding partner), Ellington (the former Highland CEO), Leventon (the former Highland in-house litigator) and other ancillary litigation and miscellaneous other issues." Response ¶ 18. Daugherty also now admits that, notwithstanding several meet-and-confer calls with Highland's counsel regarding these discovery disputes, his counsel has "re-reviewed the audio recordings … and determined that one of the recordings contains a limited discussion of Daugherty's requests to Seery about HERA's books and records." Response ¶ 1 n. 2.

8. There is no dispute that since they first met in 2020 in connection with Highland's bankruptcy case, Daugherty's communications with Seery and other Highland personnel were limited to issues concerning the Bankruptcy Case, including the Reserved Claim, the

Counterclaim, the Settlement Agreement, and HERA matters. The conversations Daugherty secretly recorded of Seery or Highland's other personnel or constituents are plainly relevant to the claims and defenses asserted in the Adversary Proceeding and ***were made by Daugherty for potential use*** in future litigation such as this.

9. The Secret Recordings indisputably concern issues arising in the Bankruptcy Case among adverse parties. Moreover, Daugherty does not contend that production of the Secret Recordings would be burdensome or implicate any privilege issues. Accordingly, Daugherty fails to meet his burden of demonstrating that the Secret Recordings lack relevance or that the potential harm caused by disclosure "outweighs the ordinary presumption in favor of disclosure." *Kinney v. Select Portfolio Servs.*, 2015 WL 7871044, at *2 (S.D. Tex. Dec. 3, 2015); *see also Orchestratehr, Inc. v. Trombetta*, 178 F. Supp. 3d 476, 506 (N.D. Tex 2016) (same).

10. Under the circumstances, the Secret Recordings come within the broad scope of relevance under Rule 26(b), and Daugherty should be compelled to disclose them.[4]

B. <u>Information About Credibility Is Relevant and Discoverable Under Rule 26(b)(1)</u>

11. Daugherty fails to demonstrate that Highland is not entitled to obtain the Secret Recordings as evidence of Daugherty's credibility. Courts have routinely held that information bearing on a party's credibility falls within the broad scope of discovery under Rule 26(b)(1). *See, e.g.*, *Behler v. Hanlon*, 199 F.R.D. 553, 561 (D. Md. 2001) ("[F]acts bearing on the credibility of witnesses are relevant to the claims and defenses raised by the pleadings."); *Newsome v. Penske Truck Leasing Corp.*, 437 F. Supp. 2d 431, 436-37 (D. Md. 2006) (noting that "[a] party must disclose impeachment evidence in response to a specific discovery request," and "the federal rules

[4] Indeed, even if certain evidence discovered pursuant to the Requests may ultimately prove to be inadmissible, "[i]nformation within this scope of discovery need not be admissible in evidence to be discoverable." FED. R. CIV. P. 26(b)(1).

promote broad disclosure during discovery so each party can evaluate the strength of its evidence and chances of success. This makes a trial less of a game of blind man's bluff and more of a fair contest.") (internal quotations omitted).

12. "This is because the information sought relates to the credibility of a witness whose testimony will be directed towards important issues in the case." *Behler*, 199 F.R.D. at 555. "Impeachment evidence is thus discoverable when relevant – in other words, when 'disclosure may reveal information affecting the credence afforded to a witness' trial testimony.'" *Murillo*, 2016 WL 6139096, at *9 (quoting *Davidson Pipe Co. v. Laventhol and Horwath*, 120 F.R.D. 455, 462 (S.D.N.Y. 2010)).

13. Daugherty's reliance on Federal Rule of Civil Procedure 26(a) in support of his argument that credibility or impeachment evidence need not be produced is misplaced. *See* Response ¶¶ 24. Rule 26(a) addresses a party's obligation to *automatically* disclose certain discovery, not the scope of discovery. *See* FED. R. CIV. P. 26(a)(1) and (3); *see also Driscoll v. Castellanos*, 2020 WL 7711869, at *7 (D.N.M. Dec. 29, 2020) ("Rule 26(a) is concerned with automatic disclosure of materials, not the scope of discovery.") (internal quotations omitted).

14. Although Rule 26(a) excepts from the parties' initial disclosure obligations information "solely for impeachment purposes," Rule 26(b) provides no similar exception. *Compare* FED. R. CIV. P. 26(a)(1)(B), (a)(3), *with* FED. R. CIV. P. 26(b)(1); *see also Murillo*, 2016 WL 6139096, at *9 ("Although the rules pertaining to initial and pretrial disclosures allows a party to withhold impeachment evidence, *see* FED. R. CIV. P. 26(a)(1) and (3), the rules regarding the discovery of evidence, *see* FED. R. CIV. P. 26(b), do not preclude impeachment materials from being subject to a discovery request.") (internal quotations omitted); *Baker*, 2021 WL 3378839, at *3 (rejecting defendants' arguments that discovery relating to impeachment need not be produced

in response to a discovery request, noting that defendants' reliance on Rule 26(a) is "misplaced"); *Papadakis v. CSX Transp., Inc.*, 233 F.R.D. 227, 228 (D. Mass. 2006) ("Rule 26(a) is concerned with automatic disclosure of materials, not the scope of discovery. . . . In contrast, Rule 26(b) governs the scope of discovery and does not exempt impeachment materials.") (internal quotations omitted); *Castellanos*, 2020 WL 7711869, at *7 ("Defendants appear to have mistakenly conflated their disclosure obligations with the scope of discovery. Defendants are correct that Rule 26(a) does not require them to *automatically disclose* pure impeachment evidence. . . . Nevertheless, such evidence is discoverable if it satisfies the requirements of Rule 26(b)(1) and is not otherwise privileged or protected."); *Karr v. Four Seasons Mar., Ltd.*, 2004 WL 797728, at *1 (E.D. La. Apr. 12, 2004) ("[N]othing in the Federal Rules permits a party to refuse to produce impeachment evidence that is responsive to an opponent's *discovery* requests. The only basis for withholding such evidence is found in Rule 26(a)(1) and (3). However, Rule 26(a) governs *disclosures* only, not discovery.").

15. Here, the Requests are not premised on the automatic disclosure requirements of Rule 26(a). Rather, Highland seeks the Secret Recordings pursuant to its written discovery Requests made under Rule 26(b). The Secret Recordings satisfy the broad scope of discovery under Rule 26(b)(1), which includes impeachment material, and are not otherwise privileged or protected. The Secret Recordings speak directly to Daugherty's credibility as a witness since they demonstrate Daugherty's propensity for deception.[5] The recordings also contain statements that Daugherty said to Seery that could undermine Daugherty's credibility as a witness to the extent Daugherty's statements in those recordings are inconsistent with his current position. Daugherty's

[5] Amazingly, it appears that Daugherty made or continued to make Secret Recording ***after*** he had been credibly sued for stalking and invasion of privacy in January 2022. *See Daugherty v. Ellington*, No. 05-22-00991-CV (Tex. App.—Dallas, Jan. 17, 2024) (affirming temporary injunction against Daugherty based on evidence supporting invasion of privacy).

Secret Recordings—which contain conversations that go to the heart of the issues in this matter and show Daugherty's propensity for deception—are plainly discoverable under the broad scope of Rule 26(b)(1).

16. Daugherty's reliance on *Eagle Railcar Services-Roscoe, Inc. v. NGL Crude Logistics, LLC*, 2018 WL 2317696 (N.D. Tex. May 22, 2018), is misguided as that case dealt only with whether impeachment evidence is subject to initial disclosure under Rule 26(a), which again, is not applicable here. Daugherty's remaining case cites do not support his argument and are inapplicable. *See Martin v. Long Island R.R. Co.*, 63 F.R.D. 53, 55 (E.D.N.Y. 1974) (granting motion to inspect photographs and movies before trial to allow counsel to effectively prepare for trial in FELA[6] case); *Blyther v. N. Lines, Inc.*, 61 F.R.D. 610 (E.D. Pa. 1973) (dealing with the extent to which a plaintiff may obtain surveillance films from defendant in a personal injury action before plaintiff's deposition).

17. Daugherty's contention that secretly recording Seery without his knowledge or consent was legal (*see* Motion ¶ 23) is irrelevant for present purposes. Whether Daugherty's secret and malicious recording of Seery without his knowledge or consent was legal (which Highland does not concede it was) has no bearing on whether this evidence is relevant and discoverable under Rule 26(b) and is not at issue in this Adversary Proceeding.[7]

18. Daugherty insists on concealing the supposedly "irrelevant" recordings to see if he can spring them on Highland at a later date ***in this proceeding***. *See* Response ¶ 25 (Daugherty stating that "if there are any inconsistent statements made during [Seery's] deposition, Daugherty

[6] Refers to Federal Employers' Liability Act.

[7] Although Daugherty baldly asserts that the telephone recording are legal because he was supposedly in Texas when he made them, Seery could have been in any number of places when he was secretly recorded, and secret telephone recordings are illegal in many jurisdictions to which Seery travels, including Connecticut where he has been frequently located throughout the Bankruptcy Case.

must produce any such recordings to Highland in order to be able to use those prior inconsistent statements at trial."). But for the reasons discussed, Daugherty's refusal to disclose this relevant, non-privileged information simply because Daugherty wishes to later use it to attack Seery's credibility is not permitted under the Federal Rules. *See Baker*, 2021 WL 3378839, at *4 ("The Court further rejects Defendants' argument that the discovery need not be produced if it will only be used for impeachment purposes at trial. Rule 26(b)(1) is defined by the claims and defenses in a case and not by a party's understanding of the nature or weight of the evidence."); *Varga v. Rockwell Int'l Corp.*, 242 F.3d 693, 697 (6th Cir. 2001) ("[T]he recipient of a properly propounded document request must produce all responsive, non-privileged documents without regard to the recipient's view of how that information might be used at trial. A party may not, under any circumstances, hold back materials responsive to a proper discovery request because it prefers to use the evidence as surprise impeachment evidence at trial.").

19. The Secret Recordings are plainly relevant and discoverable under Rule 26(b)(1). Accordingly, the Court should exercise its broad discretion and require the disclosure of the Secret Recordings.

CONCLUSION

WHEREFORE, Highland respectfully requests that the Court (a) grant the Motion and (b) grant any other relief that the Court deems just and proper.

Dated: January 8, 2026

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on January 8, 2026, true and correct copies of the foregoing reply were served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff/Counter-Defendant, v. PATRICK HAGAMAN DAUGHERTY, Defendant/Counter-Plaintiff.	§	Adv. Proc. No. 25-03055-bwo

CERTIFICATE OF SERVICE

I, Patrick M. Leathem, depose and say that I am employed by Kurtzman Carson Consultants, LLC dba Verita Global ("Verita"), the claims and noticing agent for the Reorganized Debtor in the bankruptcy case of *Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N.D. Tex).

On December 19, 2025, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **Highland Capital Management, L.P.'s Notice of Subpoena Directed to Hunton Andrews Kurth LLP** [Docket No. 59]

Furthermore, on December 26, 2025, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents** [Docket No. 60]

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

- **Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents** [Docket No. 61]

Furthermore, on December 29, 2025, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents** [Docket No. 62]

Furthermore, on December 30, 2025, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **Highland Capital Management, L.P.'s Notice of Deposition of Patrick Hagaman Daugherty** [Docket No. 65]

Furthermore, on January 8, 2026, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents** [Docket No. 71]

Dated: January 12, 2026

/s/ *Patrick M. Leathem*
Patrick M. Leathem
Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

EXHIBIT A

Exhibit A
Adversary Service List
Served via Electronic Mail

Description	CreditorName	CreditorNoticeName	Email
Counsel to Patrick Daugherty	Gray Reed	Jason S. Brookner, Andrew K. York, Joshua D. Smeltzer, Drake M. Rayshell, William Drabble, J. Reid Burley	jbrookner@grayreed.com; dyork@grayreed.com; jsmeltzer@grayreed.com; drayshell@grayreed.com; wdrabble@grayreed.com; rburley@grayreed.com
Counsel for the Debtor	Hayward & Associates PLLC	Melissa S. Hayward, Zachery Z. Annable	MHayward@HaywardFirm.com; ZAnnable@HaywardFirm.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Richard M. Pachulski, Jeffrey N. Pomerantz, Ira D. Kharasch, James E. O'Neill, Robert J. Feinstein, John A. Morris, Gregory V. Demo	rpachulski@pszjlaw.com; jpomerantz@pszjlaw.com; ikharasch@pszjlaw.com; joneill@pszjlaw.com; rfeinstein@pszjlaw.com; jmorris@pszjlaw.com; gdemo@pszjlaw.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Robert Joel Feinstein, Hayley R. Winograd, Judith Elkin, Jordan A Kroop, Robert J Feinstein	rfeinstein@pszjlaw.com; hwinograd@pszjlaw.com; jelkin@pszjlaw.com

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff/Counter-Defendant, v. PATRICK HAGAMAN DAUGHERTY, Defendant/Counter-Plaintiff.	§	Adv. Proc. No. 25-03055-bwo

CERTIFICATE OF SERVICE

I, Patrick M. Leathem, depose and say that I am employed by Kurtzman Carson Consultants, LLC dba Verita Global ("Verita"), the claims and noticing agent for the Reorganized Debtor in the bankruptcy case of *Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N.D. Tex).

On October 24, 2025, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim** [Docket No. 56]

Dated: January 12, 2026

/s/ *Patrick M. Leathem*
Patrick M. Leathem
Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

EXHIBIT A

Exhibit A
Adversary Service List
Served via Electronic Mail

Description	CreditorName	CreditorNoticeName	Email
Counsel to Patrick Daugherty	Gray Reed	Jason S. Brookner, Andrew K. York, Joshua D. Smeltzer, Drake M. Rayshell, William Drabble, J. Reid Burley	jbrookner@grayreed.com; dyork@grayreed.com; jsmeltzer@grayreed.com; draysehll@grayreed.com; wdrabble@grayreed.com; rburley@grayreed.com
Counsel for the Debtor	Hayward & Associates PLLC	Melissa S. Hayward, Zachery Z. Annable	MHayward@HaywardFirm.com; ZAnnable@HaywardFirm.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Richard M. Pachulski, Jeffrey N. Pomerantz, Ira D. Kharasch, James E. O'Neill, Robert J. Feinstein, John A. Morris, Gregory V. Demo	rpachulski@pszjlaw.com; jpomerantz@pszjlaw.com; ikharasch@pszjlaw.com; joneill@pszjlaw.com; rfeinstein@pszjlaw.com; jmorris@pszjlaw.com; gdemo@pszjlaw.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Robert Joel Feinstein, Hayley R. Winograd, Judith Elkin, Jordan A Kroop, Robert J Feinstein	rfeinstein@pszjlaw.com; hwinograd@pszjlaw.com; jelkin@pszjlaw.com

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 15, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

ORDER GRANTING HIGHLAND'S MOTION TO COMPEL PRODUCTION OF AUDIO RECORDINGS, TRANSCRIPTS, AND RELATED DOCUMENTS

Upon consideration of (a) the *Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* [Docket No. 60] (the "Motion") filed by Highland Capital

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

Management, L.P. ("Highland"), (b) the *Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* (and the exhibits annexed thereto) [Docket No. 61], (c) the *Response to Highland's Motion to Compel* [Docket No. 69] filed by Patrick Daugherty ("Daugherty"), (d) the *Declaration of J. Reid Burley in Support of Patrick Daugherty's Response to Highland's Motion to Compel* (and the exhibit annexed thereto) [Docket No. 70], (e) Highland's *Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* [Docket No. 71], and (f) the arguments presented during the hearing held on January 14, 2026 (the "Hearing"), and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (d) notice of the Motion was proper and sufficient under the circumstances and no further or additional notice need be given; for the reasons stated during the Hearing, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED** in its entirety.

2. Mr. Daugherty is directed to produce to Highland all audio recordings and transcripts of conversations he had with James P. Seery, Jr., with such production to be completed by January 16, 2026, at 5:00 p.m. Central Time.

3. The Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order.

###End of Order###

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 15, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

ORDER GRANTING HIGHLAND'S MOTION TO COMPEL PRODUCTION OF AUDIO RECORDINGS, TRANSCRIPTS, AND RELATED DOCUMENTS

Upon consideration of (a) the *Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* [Docket No. 60] (the "Motion") filed by Highland Capital

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

Management, L.P. ("Highland"), (b) the *Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* (and the exhibits annexed thereto) [Docket No. 61], (c) the *Response to Highland's Motion to Compel* [Docket No. 69] filed by Patrick Daugherty ("Daugherty"), (d) the *Declaration of J. Reid Burley in Support of Patrick Daugherty's Response to Highland's Motion to Compel* (and the exhibit annexed thereto) [Docket No. 70], (e) Highland's *Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* [Docket No. 71], and (f) the arguments presented during the hearing held on January 14, 2026 (the "Hearing"), and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (d) notice of the Motion was proper and sufficient under the circumstances and no further or additional notice need be given; for the reasons stated during the Hearing, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED** in its entirety.

2. Mr. Daugherty is directed to produce to Highland all audio recordings and transcripts of conversations he had with James P. Seery, Jr., with such production to be completed by January 16, 2026, at 5:00 p.m. Central Time.

3. The Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order.

###End of Order###

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin Page 1 of 2

Date Rcvd: Jan 15, 2026 Form ID: pdf001 Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 17, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Jan 15 2026 21:40:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jan 15 2026 21:40:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Jan 15 2026 21:40:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jan 15 2026 21:40:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 17, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 15, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 22, 2026

United States Bankruptcy Judge

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

In Re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. Proc. No. 25-03055-bwo
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

AGREED PROTECTIVE ORDER CONCERNING SUBPOENA TO THIRD-PARTY HUNTON ANDREWS KURTH LLP

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 6333 E. Mockingbird Lane, Suite 147 #5045, Dallas, TX 75214.

Plaintiff/Counter-Defendant Highland Capital Management, L.P. ("Plaintiff") and Defendant/Counter-Plaintiff Patrick Hagaman Daugherty ("Defendant" or "Daugherty") (collectively, the "Parties") anticipate that, pursuant to a subpoena issued by Plaintiff and served upon third-party Hunton Andrews Kurth LLP ("Hunton") on or about December 19, 2025 (the "Subpoena"), Hunton will produce certain Hunton Protected Material (as hereinafter defined) during the course of discovery in the above-captioned adversary proceeding (collectively, the "Action").[2] To facilitate production of the Hunton Protected Material, the Parties stipulate to and request that, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, this Court enter this Agreed Protective Order Concerning Documents Produced by Hunton ("Protective Order"), setting forth the conditions for obtaining, treating, and using subpoenaed Hunton Protected Material.

1. PURPOSES AND LIMITATIONS

(a) Hunton Protected Material shall be used solely for the purpose of prosecuting claims and asserting defenses in the Action. Plaintiff and Defendant shall hold Hunton Protected Material in confidence in accordance with the terms and conditions set forth in this Protective Order. Hunton Protected Material shall not be used for any other purpose, and shall not be used or shown, disseminated, copied, or otherwise disclosed to anyone not entitled to such Hunton Protected Material as herein provided. Plaintiff and Defendant each shall take reasonable steps to limit access to Hunton Protected Material to those persons entitled to review it in accordance with the terms of

[2] Capitalized terms used and not defined herein have the meanings ascribed to such terms in the Subpoena.

this Protective Order.

(b) The Parties acknowledge that the protection the Protective Order affords from public disclosure and use extends only to the specific Hunton Protected Material produced by Hunton to Plaintiff in this Action, except to the extent this Protective Order is modified at a later date.

2. DEFINITIONS

(a) "Outside Counsel" means (i) outside counsel for a Party or its affiliates, as applicable, and (ii) partners, principals, counsel, associates, employees, and contract attorneys of such counsel to whom it is reasonably necessary to disclose the information in connection with the Action, including supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, legal clerks and any copying or clerical litigation support services working at the direction of such counsel, paralegals, and staff.

(b) "Outside Expert or Consultant" means a person retained by Outside Counsel to serve as an expert witness or a litigation consultant in the Action (including any necessary support personnel of such person to whom disclosure is reasonably necessary for this litigation), and who is not a current employee of a Party.

(c) "Party" means any party to this Action, their respective affiliates and related entities, and its and their respective officers, directors (including, without limitation, any members of the Highland Claimant Trust Oversight Board), trustees (including, without limitation, the trustees of the Highland Claimant Trust), administrators (including, without limitation, the indemnity trust administrator of the

Highland Indemnity Trust), employees, consultants, agents, retained experts, and Outside Counsel and their support staffs.

(d) "Hunton Protected Material" means all Documents Hunton produces pursuant to the Subpoena that Hunton designates in writing or marks on the Document as Hunton Protected Material, which may include the following Documents and information, in each case, to the extent produced by or on behalf of Hunton to Plaintiff in this Action, all information contained therein, and all copies thereof: (i) Hunton's Communications with the Internal Revenue Service ("IRS," which shall include IRS Independent Office of Appeals and its employees and agents), including all attachments to the Communications, Concerning the 2008 Audit; and (ii) Hunton's Communications with Defendant, if produced, Concerning a substantive aspect of the IRS or Hunton's (on behalf of its client) thoughts, opinions, work product, positions, or arguments for the 2008 Audit, including all attachments to such Communications; provided, that, notwithstanding anything in this Protective Order to the contrary, "Hunton Protected Material" shall not include any information that is independently developed by Plaintiff or Defendant without use or reference to any Hunton Protected Material.

(e) "Hunton Counsel" means Hunton's undersigned counsel signing in consent of this Protective Order or Hunton's substitute counsel whom Hunton designates to the Parties' Outside Counsel.

(f) "Third Parties" means persons, organizations or entities who are not Plaintiff or Defendant in this Action.

3. SCOPE

(a) The protections conferred by this Protective Order apply to all Hunton Protected Material and any documents or information directly extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by Parties or their counsel in court that might reveal Hunton Protected Material.

(b) Nothing in this Protective Order shall prevent or restrict Plaintiff or Defendant's disclosure or use for any purpose of their separately owned documents that otherwise may be contained in or be a part of produced Hunton Protected Material.

(c) Nothing in this Protective Order shall be construed to prejudice any Party's right to use any Hunton Protected Material in any filing in the Action, provided the Party complies with the Protective Order and applicable rules regarding the filing of documents under seal.

4. ACCESS TO AND USE OF HUNTON PROTECTED MATERIAL

(a) Basic Principles. Hunton Protected Material shall be used as set forth herein below, and such use shall be solely for the purpose of prosecuting or defending any claims or defenses asserted in the Action or any related appellate proceeding. Hunton Protected Material shall not be distributed, disclosed, or made available to any persons, organizations or entities except as expressly provided in this Protective Order.

(b) Secure Storage. Hunton Protected Material shall be maintained by the Parties and their respective Outside Counsel and Outside Expert or Consultants (collectively, "Protectors") using a degree of care that is no less stringent than that used

to protect Plaintiff and Defendant's own confidential information of a similar nature, which in any event, shall be no less than a reasonable degree of care, and Protectors shall take reasonable measures to protect the secrecy, and prevent any disclosure, of Hunton Protected Material in violation of this Protective Order. For the avoidance of doubt, the Parties acknowledge and agree that Hunton Protected Material may be stored and maintained on the Parties' data management systems and cloud-based services managed and maintained by Third Parties, and Hunton Protected Material may be transmitted to and from the Parties' respective email systems and the email addresses of their representatives.

(c) Legal Advice Based on Hunton Protected Material. Subject to the restrictions of Section 5(b) above, this Protective Order does not prevent counsel from advising their clients with respect to the Action based in whole or in part upon any Hunton Protected Material, provided counsel does not disclose Hunton Protected Material except as permitted by this Protective Order.

(d) Third Party Discovery. Nothing in this Protective Order shall limit or impair the ability of any Party to obtain and use Third Party discovery obtained from a Third Party other than Hunton. Nothing in this Protective Order shall limit or impair Defendant's right to seek a protective order concerning any material produced by any third party in discovery in the Action that contains Defendant's tax or financial information.

(e) This Protective Order is without prejudice to the right of any Party, the IRS, Hunton or Hunton's clients to seek further or additional protection of any Hunton

Protected Material or to modify this Protective Order in any way upon reasonable notice to all Parties, including to seek a protective order for any non-Hunton Protected Material produced by Hunton in response to the Subpoena.

5. ADDITIONAL PROVISIONS RELATING TO HUNTON PROTECTED MATERIAL

(a) Testimony given in deposition and in other pretrial or trial proceeding that specifically references Hunton Protected Material shall be indicated on the record as covered by this Protective Order. Only those portions of testimony that are appropriately designated shall be covered by this Protective Order.

(b) The use of a document as an exhibit at a deposition shall not affect its designation as Hunton Protected Material. Hunton Protected Material used during a deposition shall remain subject to the provisions of this Protective Order.

(c) Transcripts containing Hunton Protected Material shall have a conspicuous legend on the title page that the transcript contains Hunton Protected Material. If the deposition is videotaped, the original and all copies of the videotape shall be marked by the video technician to indicate that the contents of the videotape are subject to this Protective Order, substantially along the lines of "This videotape contains confidential testimony and is not to be viewed or the contents thereof to be displayed or revealed except pursuant to the terms of this Protective Order in this matter or pursuant to written stipulation of the Parties and Hunton."

6. NOTICE OF DISCLOSURE

Before an Outside Expert or Consultant may receive Hunton Protected Material,

the Outside Expert or Consultant must sign the "Agreement to Be Bound by this Protective Order" (Exhibit A), a copy of which shall be provided to the Parties and Hunton's Counsel at the time the Parties must designate testifying experts under the scheduling order in the Action.

7. SUBPOENAS OR COURT ORDERS

If Hunton Protected Material is subpoenaed by any non-party to the Action, court, arbitral, administrative, or legislative body, the subpoenaed Party (or its Outside Counsel or Outside Expert or Consultant, as the case may be) shall give prompt written notice thereof to the other Party, its Outside Counsel, and to Hunton Counsel. If Hunton does not take steps to prevent disclosure of such documents within seven (7) days of the date written notice is given, the subpoenaed Party may produce such Hunton Protected Material in response thereto, but shall take reasonable measures to have such documents treated in accordance with terms of this Protective Order.

8. FILING PROTECTED MATERIAL

(a) Absent written permission from Hunton or a court order secured after reasonable notice to Hunton, a Party may not file in the public record any Hunton Protected Material.

(b) A Party is authorized under applicable rules to file, describe, or refer to Hunton Protected Material under seal in the Action.

9. INADVERTENT FAILURE TO DESIGNATE PROPERLY

The inadvertent failure by Hunton to designate Hunton Protected Material shall not waive the protections afforded under this Protective Order; provided that Hunton

notifies the Parties that such Hunton Protected Material is protected under this Protective Order within seven (7) days of Hunton learning of the inadvertent failure to designate. Hunton shall reproduce the Protected Material with a designation within seven (7) days upon its notification to the Parties.

10. INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER

(a) In the event of a disclosure of Hunton Protected Material to any person or persons not authorized to receive such disclosure under this Protective Order, the disclosing Protector shall promptly notify Outside Counsel for the non-disclosing Party and Hunton's Counsel and provide to such counsel all known relevant information concerning the nature and circumstances of the disclosure. The disclosing Protector shall also promptly take reasonable measures to retrieve the unauthorized disclosed Hunton Protected Material and to take reasonable steps to prevent any further unauthorized disclosure of Hunton Protected Material.

(b) In addition to subsection (a) above, the disclosing Protector shall also use reasonable efforts to seek to bind such person or party to the terms of this Protective Order and (a) such person shall be informed promptly of all the provisions of this Protective Order by and asked to return the information; (b) such person shall be identified to Hunton Counsel; and (c) the person to whom disclosure was made shall be requested to sign Exhibit A hereto. Nothing in this Paragraph shall affect Hunton's remedies under this Protective Order or otherwise for such unauthorized disclosure.

(c) A Protector's unauthorized or inadvertent disclosure does not change the status of Hunton Protected Material or waive the right to hold the disclosed document or

information as Hunton Protected Material.

11. FINAL DISPOSITION

Unless otherwise ordered or agreed to in writing by Hunton, within sixty (60) days after a final termination of this Action by settlement or exhaustion of all appeals ("Final Disposition"), all Parties and Protectors in receipt of Hunton Protected Material shall exercise reasonable efforts to either return all such materials and copies thereof to Hunton or destroy such Hunton Protected Material and certify that fact in writing to Hunton's Counsel. Protectors' reasonable efforts shall not require the return or destruction of Hunton Protected Material that (i) is stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes and is overwritten in the normal course of business or (ii) is subject to legal hold obligations. Counsel for the Parties shall be entitled to retain copies of court papers (and exhibits thereto), correspondence, pleadings, deposition and trial transcripts (and exhibits thereto), expert reports and attorney work product that contain or refer to Hunton Protected Material, provided that such counsel and employees of such counsel shall not disclose such Hunton Protected Material to any person, except pursuant to Court order. Nothing shall be interpreted in a manner that would violate any applicable canons of ethics or codes of professional responsibility.

12. DEPOSITION OF HUNTON

After production of Hunton documents, the Parties and Hunton shall confer in attempt to reach agreement about any deposition of Hunton pursuant to the Subpoena ("Hunton Deposition") in terms of necessity, date, time, manner, length, and topic

limitations, and each reserves its rights and objections regarding protection against or compelling of such for a Hunton Deposition.

13. MISCELLANEOUS

(a) Right to Further Relief. Nothing in this Protective Order abridges the right of any person to seek its modification by this Court on reasonable notice. By stipulating to this Protective Order, the Parties and Hunton do not waive the right to argue that certain material may require additional or different confidentiality protections than those set forth herein.

(b) Termination of Matter and Retention of Jurisdiction. The Parties agree that the terms of this Protective Order shall survive and remain in effect after the Final Disposition of this Action. The Court shall retain jurisdiction after Final Disposition of this Action to hear and resolve any disputes arising out of this Protective Order.

(c) Successors. This Protective Order shall be binding upon the Parties hereto, their attorneys, and their successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and experts, and any persons or organizations over which they have direct control.

(d) Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party nor Hunton waives any right it otherwise would have to object to disclosing or producing any information or item. Similarly, no Party nor Hunton waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

(e) Burdens of Proof. Notwithstanding anything to the contrary above, nothing in this Protective Order shall be construed to change the burdens of proof or legal standards applicable in disputes regarding whether particular Hunton Protected Material is confidential, whether disclosure should be restricted, and if so, what restrictions should apply.

(f) Modification by Court. This Protective Order is subject to further court order based upon public policy or other considerations, and this Court may modify this Protective Order *sua sponte* in the interests of justice. The United States Bankruptcy Court for the Northern District of Texas is responsible for the interpretation and enforcement of this Protective Order. All disputes concerning Hunton Protected Material, however designated, produced under the protection of this Protective Order shall be resolved by the United States Bankruptcy Court for the Northern District of Texas.

(g) Discovery Rules Remain Unchanged. Nothing herein shall alter or change in any way the discovery provisions of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders. Identification of any individual pursuant to this Protective Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders.

(h) Attorneys and witnesses are prohibited from arguing or implying at trial that a witness for a Party should have or could have received or reviewed information

protected by this Order if this Order prohibits that witness from receiving or reviewing such information.

End of Order

APPROVED AS TO FORM AND SUBSTANCE:

COUNSEL FOR PLAINTIFF

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

HAYWARD PLLC

By: */s/ Zachery Z. Annable*
Melissa S. Hayward
Texas Bar No. 24044908
Zachery Z. Annable
Texas Bar No. 24053075
10501 N. Central Expy., Suite 106
Dallas, Texas 75231
MHayward@HaywardFirm.com
ZAnnable@HaywardFirm.com

COUNSEL FOR DEFENDANT

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

COUNSEL FOR THIRD-PARTY HUNTON ANDREWS KURTH LLP

HUNTON ANDREWS KURTH LLP

By: */s/ Gregory G. Hesse*
Gregory G. Hesse
Texas Bar No. 09549419
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
Telephone: (214) 468-3335
W. Scott Locher
Texas Bar No. 12457500
600 Travis Street, Suite 4200
Houston, Texas 77002
ghesse@hunton.com
slocher@hunton.com

EXHIBIT A

I,_____, acknowledge and declare that I have received a copy of the Protective Order Regarding the Subpoena To Third-Party Hunton Andrews Kurth LLP ("Protective Order") in Adversary Proceeding No. 25-03055-bwo, *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty,* in the United States Bankruptcy Court for the Northern District of Texas. Having read and understood the terms of the Protective Order, I agree to be bound by the terms of the Protective Order.

1. My business address is:

_____

2. My present occupation or job description (including my title) is:

_____

3. I will store and maintain Hunton Protected Material in a secure manner as set forth in the Protective Order and that ensures that access is limited to the persons authorized under this Protective Order.

4. Having read the Protective Order, I will comply with all its provisions, including those not explicitly set out in this signed undertaking.

5. I hereby submit to the jurisdiction of the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order.

6. I hereby agree to personally appear before the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order and/or for resolving any issue that might arise in connection with my involvement in this litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Date:_____

Signature:_____

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 22, 2026

United States Bankruptcy Judge

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

In Re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. Proc. No. 25-03055-bwo
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

AGREED PROTECTIVE ORDER CONCERNING SUBPOENA TO THIRD-PARTY HUNTON ANDREWS KURTH LLP

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 6333 E. Mockingbird Lane, Suite 147 #5045, Dallas, TX 75214.

Plaintiff/Counter-Defendant Highland Capital Management, L.P. ("Plaintiff") and Defendant/Counter-Plaintiff Patrick Hagaman Daugherty ("Defendant" or "Daugherty") (collectively, the "Parties") anticipate that, pursuant to a subpoena issued by Plaintiff and served upon third-party Hunton Andrews Kurth LLP ("Hunton") on or about December 19, 2025 (the "Subpoena"), Hunton will produce certain Hunton Protected Material (as hereinafter defined) during the course of discovery in the above-captioned adversary proceeding (collectively, the "Action").[2] To facilitate production of the Hunton Protected Material, the Parties stipulate to and request that, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, this Court enter this Agreed Protective Order Concerning Documents Produced by Hunton ("Protective Order"), setting forth the conditions for obtaining, treating, and using subpoenaed Hunton Protected Material.

1. PURPOSES AND LIMITATIONS

(a) Hunton Protected Material shall be used solely for the purpose of prosecuting claims and asserting defenses in the Action. Plaintiff and Defendant shall hold Hunton Protected Material in confidence in accordance with the terms and conditions set forth in this Protective Order. Hunton Protected Material shall not be used for any other purpose, and shall not be used or shown, disseminated, copied, or otherwise disclosed to anyone not entitled to such Hunton Protected Material as herein provided. Plaintiff and Defendant each shall take reasonable steps to limit access to Hunton Protected Material to those persons entitled to review it in accordance with the terms of

[2] Capitalized terms used and not defined herein have the meanings ascribed to such terms in the Subpoena.

this Protective Order.

(b) The Parties acknowledge that the protection the Protective Order affords from public disclosure and use extends only to the specific Hunton Protected Material produced by Hunton to Plaintiff in this Action, except to the extent this Protective Order is modified at a later date.

2. DEFINITIONS

(a) "Outside Counsel" means (i) outside counsel for a Party or its affiliates, as applicable, and (ii) partners, principals, counsel, associates, employees, and contract attorneys of such counsel to whom it is reasonably necessary to disclose the information in connection with the Action, including supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, legal clerks and any copying or clerical litigation support services working at the direction of such counsel, paralegals, and staff.

(b) "Outside Expert or Consultant" means a person retained by Outside Counsel to serve as an expert witness or a litigation consultant in the Action (including any necessary support personnel of such person to whom disclosure is reasonably necessary for this litigation), and who is not a current employee of a Party.

(c) "Party" means any party to this Action, their respective affiliates and related entities, and its and their respective officers, directors (including, without limitation, any members of the Highland Claimant Trust Oversight Board), trustees (including, without limitation, the trustees of the Highland Claimant Trust), administrators (including, without limitation, the indemnity trust administrator of the

Highland Indemnity Trust), employees, consultants, agents, retained experts, and Outside Counsel and their support staffs.

(d) "Hunton Protected Material" means all Documents Hunton produces pursuant to the Subpoena that Hunton designates in writing or marks on the Document as Hunton Protected Material, which may include the following Documents and information, in each case, to the extent produced by or on behalf of Hunton to Plaintiff in this Action, all information contained therein, and all copies thereof: (i) Hunton's Communications with the Internal Revenue Service ("IRS," which shall include IRS Independent Office of Appeals and its employees and agents), including all attachments to the Communications, Concerning the 2008 Audit; and (ii) Hunton's Communications with Defendant, if produced, Concerning a substantive aspect of the IRS or Hunton's (on behalf of its client) thoughts, opinions, work product, positions, or arguments for the 2008 Audit, including all attachments to such Communications; provided, that, notwithstanding anything in this Protective Order to the contrary, "Hunton Protected Material" shall not include any information that is independently developed by Plaintiff or Defendant without use or reference to any Hunton Protected Material.

(e) "Hunton Counsel" means Hunton's undersigned counsel signing in consent of this Protective Order or Hunton's substitute counsel whom Hunton designates to the Parties' Outside Counsel.

(f) "Third Parties" means persons, organizations or entities who are not Plaintiff or Defendant in this Action.

3. SCOPE

(a) The protections conferred by this Protective Order apply to all Hunton Protected Material and any documents or information directly extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by Parties or their counsel in court that might reveal Hunton Protected Material.

(b) Nothing in this Protective Order shall prevent or restrict Plaintiff or Defendant's disclosure or use for any purpose of their separately owned documents that otherwise may be contained in or be a part of produced Hunton Protected Material.

(c) Nothing in this Protective Order shall be construed to prejudice any Party's right to use any Hunton Protected Material in any filing in the Action, provided the Party complies with the Protective Order and applicable rules regarding the filing of documents under seal.

4. ACCESS TO AND USE OF HUNTON PROTECTED MATERIAL

(a) Basic Principles. Hunton Protected Material shall be used as set forth herein below, and such use shall be solely for the purpose of prosecuting or defending any claims or defenses asserted in the Action or any related appellate proceeding. Hunton Protected Material shall not be distributed, disclosed, or made available to any persons, organizations or entities except as expressly provided in this Protective Order.

(b) Secure Storage. Hunton Protected Material shall be maintained by the Parties and their respective Outside Counsel and Outside Expert or Consultants (collectively, "Protectors") using a degree of care that is no less stringent than that used

to protect Plaintiff and Defendant's own confidential information of a similar nature, which in any event, shall be no less than a reasonable degree of care, and Protectors shall take reasonable measures to protect the secrecy, and prevent any disclosure, of Hunton Protected Material in violation of this Protective Order. For the avoidance of doubt, the Parties acknowledge and agree that Hunton Protected Material may be stored and maintained on the Parties' data management systems and cloud-based services managed and maintained by Third Parties, and Hunton Protected Material may be transmitted to and from the Parties' respective email systems and the email addresses of their representatives.

(c) Legal Advice Based on Hunton Protected Material. Subject to the restrictions of Section 5(b) above, this Protective Order does not prevent counsel from advising their clients with respect to the Action based in whole or in part upon any Hunton Protected Material, provided counsel does not disclose Hunton Protected Material except as permitted by this Protective Order.

(d) Third Party Discovery. Nothing in this Protective Order shall limit or impair the ability of any Party to obtain and use Third Party discovery obtained from a Third Party other than Hunton. Nothing in this Protective Order shall limit or impair Defendant's right to seek a protective order concerning any material produced by any third party in discovery in the Action that contains Defendant's tax or financial information.

(e) This Protective Order is without prejudice to the right of any Party, the IRS, Hunton or Hunton's clients to seek further or additional protection of any Hunton

Protected Material or to modify this Protective Order in any way upon reasonable notice to all Parties, including to seek a protective order for any non-Hunton Protected Material produced by Hunton in response to the Subpoena.

5. ADDITIONAL PROVISIONS RELATING TO HUNTON PROTECTED MATERIAL

(a) Testimony given in deposition and in other pretrial or trial proceeding that specifically references Hunton Protected Material shall be indicated on the record as covered by this Protective Order. Only those portions of testimony that are appropriately designated shall be covered by this Protective Order.

(b) The use of a document as an exhibit at a deposition shall not affect its designation as Hunton Protected Material. Hunton Protected Material used during a deposition shall remain subject to the provisions of this Protective Order.

(c) Transcripts containing Hunton Protected Material shall have a conspicuous legend on the title page that the transcript contains Hunton Protected Material. If the deposition is videotaped, the original and all copies of the videotape shall be marked by the video technician to indicate that the contents of the videotape are subject to this Protective Order, substantially along the lines of "This videotape contains confidential testimony and is not to be viewed or the contents thereof to be displayed or revealed except pursuant to the terms of this Protective Order in this matter or pursuant to written stipulation of the Parties and Hunton."

6. NOTICE OF DISCLOSURE

Before an Outside Expert or Consultant may receive Hunton Protected Material,

the Outside Expert or Consultant must sign the "Agreement to Be Bound by this Protective Order" (Exhibit A), a copy of which shall be provided to the Parties and Hunton's Counsel at the time the Parties must designate testifying experts under the scheduling order in the Action.

7. SUBPOENAS OR COURT ORDERS

If Hunton Protected Material is subpoenaed by any non-party to the Action, court, arbitral, administrative, or legislative body, the subpoenaed Party (or its Outside Counsel or Outside Expert or Consultant, as the case may be) shall give prompt written notice thereof to the other Party, its Outside Counsel, and to Hunton Counsel. If Hunton does not take steps to prevent disclosure of such documents within seven (7) days of the date written notice is given, the subpoenaed Party may produce such Hunton Protected Material in response thereto, but shall take reasonable measures to have such documents treated in accordance with terms of this Protective Order.

8. FILING PROTECTED MATERIAL

(a) Absent written permission from Hunton or a court order secured after reasonable notice to Hunton, a Party may not file in the public record any Hunton Protected Material.

(b) A Party is authorized under applicable rules to file, describe, or refer to Hunton Protected Material under seal in the Action.

9. INADVERTENT FAILURE TO DESIGNATE PROPERLY

The inadvertent failure by Hunton to designate Hunton Protected Material shall not waive the protections afforded under this Protective Order; provided that Hunton

notifies the Parties that such Hunton Protected Material is protected under this Protective Order within seven (7) days of Hunton learning of the inadvertent failure to designate. Hunton shall reproduce the Protected Material with a designation within seven (7) days upon its notification to the Parties.

10. INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER

(a) In the event of a disclosure of Hunton Protected Material to any person or persons not authorized to receive such disclosure under this Protective Order, the disclosing Protector shall promptly notify Outside Counsel for the non-disclosing Party and Hunton's Counsel and provide to such counsel all known relevant information concerning the nature and circumstances of the disclosure. The disclosing Protector shall also promptly take reasonable measures to retrieve the unauthorized disclosed Hunton Protected Material and to take reasonable steps to prevent any further unauthorized disclosure of Hunton Protected Material.

(b) In addition to subsection (a) above, the disclosing Protector shall also use reasonable efforts to seek to bind such person or party to the terms of this Protective Order and (a) such person shall be informed promptly of all the provisions of this Protective Order by and asked to return the information; (b) such person shall be identified to Hunton Counsel; and (c) the person to whom disclosure was made shall be requested to sign Exhibit A hereto. Nothing in this Paragraph shall affect Hunton's remedies under this Protective Order or otherwise for such unauthorized disclosure.

(c) A Protector's unauthorized or inadvertent disclosure does not change the status of Hunton Protected Material or waive the right to hold the disclosed document or

information as Hunton Protected Material.

11. FINAL DISPOSITION

Unless otherwise ordered or agreed to in writing by Hunton, within sixty (60) days after a final termination of this Action by settlement or exhaustion of all appeals ("Final Disposition"), all Parties and Protectors in receipt of Hunton Protected Material shall exercise reasonable efforts to either return all such materials and copies thereof to Hunton or destroy such Hunton Protected Material and certify that fact in writing to Hunton's Counsel. Protectors' reasonable efforts shall not require the return or destruction of Hunton Protected Material that (i) is stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes and is overwritten in the normal course of business or (ii) is subject to legal hold obligations. Counsel for the Parties shall be entitled to retain copies of court papers (and exhibits thereto), correspondence, pleadings, deposition and trial transcripts (and exhibits thereto), expert reports and attorney work product that contain or refer to Hunton Protected Material, provided that such counsel and employees of such counsel shall not disclose such Hunton Protected Material to any person, except pursuant to Court order. Nothing shall be interpreted in a manner that would violate any applicable canons of ethics or codes of professional responsibility.

12. DEPOSITION OF HUNTON

After production of Hunton documents, the Parties and Hunton shall confer in attempt to reach agreement about any deposition of Hunton pursuant to the Subpoena ("Hunton Deposition") in terms of necessity, date, time, manner, length, and topic

limitations, and each reserves its rights and objections regarding protection against or compelling of such for a Hunton Deposition.

13. MISCELLANEOUS

(a) Right to Further Relief. Nothing in this Protective Order abridges the right of any person to seek its modification by this Court on reasonable notice. By stipulating to this Protective Order, the Parties and Hunton do not waive the right to argue that certain material may require additional or different confidentiality protections than those set forth herein.

(b) Termination of Matter and Retention of Jurisdiction. The Parties agree that the terms of this Protective Order shall survive and remain in effect after the Final Disposition of this Action. The Court shall retain jurisdiction after Final Disposition of this Action to hear and resolve any disputes arising out of this Protective Order.

(c) Successors. This Protective Order shall be binding upon the Parties hereto, their attorneys, and their successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and experts, and any persons or organizations over which they have direct control.

(d) Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party nor Hunton waives any right it otherwise would have to object to disclosing or producing any information or item. Similarly, no Party nor Hunton waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

(e) Burdens of Proof. Notwithstanding anything to the contrary above, nothing in this Protective Order shall be construed to change the burdens of proof or legal standards applicable in disputes regarding whether particular Hunton Protected Material is confidential, whether disclosure should be restricted, and if so, what restrictions should apply.

(f) Modification by Court. This Protective Order is subject to further court order based upon public policy or other considerations, and this Court may modify this Protective Order *sua sponte* in the interests of justice. The United States Bankruptcy Court for the Northern District of Texas is responsible for the interpretation and enforcement of this Protective Order. All disputes concerning Hunton Protected Material, however designated, produced under the protection of this Protective Order shall be resolved by the United States Bankruptcy Court for the Northern District of Texas.

(g) Discovery Rules Remain Unchanged. Nothing herein shall alter or change in any way the discovery provisions of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders. Identification of any individual pursuant to this Protective Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Texas, or this Court's own orders.

(h) Attorneys and witnesses are prohibited from arguing or implying at trial that a witness for a Party should have or could have received or reviewed information

protected by this Order if this Order prohibits that witness from receiving or reviewing such information.

End of Order

APPROVED AS TO FORM AND SUBSTANCE:

COUNSEL FOR PLAINTIFF

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

HAYWARD PLLC

By: */s/ Zachery Z. Annable*
Melissa S. Hayward
Texas Bar No. 24044908
Zachery Z. Annable
Texas Bar No. 24053075
10501 N. Central Expy., Suite 106
Dallas, Texas 75231
MHayward@HaywardFirm.com
ZAnnable@HaywardFirm.com

COUNSEL FOR DEFENDANT

GRAY REED

By: */s/ Andrew K. York*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

COUNSEL FOR THIRD-PARTY HUNTON ANDREWS KURTH LLP

HUNTON ANDREWS KURTH LLP

By: */s/ Gregory G. Hesse*
Gregory G. Hesse
Texas Bar No. 09549419
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
Telephone: (214) 468-3335
W. Scott Locher
Texas Bar No. 12457500
600 Travis Street, Suite 4200
Houston, Texas 77002
ghesse@hunton.com
slocher@hunton.com

EXHIBIT A

I,_____, acknowledge and declare that I have received a copy of the Protective Order Regarding the Subpoena To Third-Party Hunton Andrews Kurth LLP ("Protective Order") in Adversary Proceeding No. 25-03055-bwo, *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty,* in the United States Bankruptcy Court for the Northern District of Texas. Having read and understood the terms of the Protective Order, I agree to be bound by the terms of the Protective Order.

1. My business address is:

_____

2. My present occupation or job description (including my title) is:

_____

3. I will store and maintain Hunton Protected Material in a secure manner as set forth in the Protective Order and that ensures that access is limited to the persons authorized under this Protective Order.

4. Having read the Protective Order, I will comply with all its provisions, including those not explicitly set out in this signed undertaking.

5. I hereby submit to the jurisdiction of the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order.

6. I hereby agree to personally appear before the United States Bankruptcy Court for the Northern District of Texas for the purpose of enforcement of this Protective Order and/or for resolving any issue that might arise in connection with my involvement in this litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Date:_____

Signature:_____

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Jan 23, 2026 Form ID: pdf001 Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 25, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Jan 23 2026 21:40:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jan 23 2026 21:40:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Jan 23 2026 21:40:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jan 23 2026 21:40:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 25, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 23, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
ENTERED
THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 26, 2026

United States Bankruptcy Judge

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

In Re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054
	§	Chapter 11
Debtor.	§	

Highland Capital Management, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adversary No. 25-03055
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION AND ORDER

Before the Court is Defendant's, Patrick Hagaman Daugherty ("Daugherty"), *Motion for Stay Pending Appeal* ("Stay Motion") [Dkt. No. 33].[1] The Stay Motion asks

[1] Unless otherwise stated, "Dkt. No." refers to the numbered docket entry in the Court's electronic case file for Adversary No. 25-03055.

the Court to stay this adversary proceeding pending Daugherty's appeal to the district court of this Court's *Order (A) Denying Patrick Daugherty's Motion to Dismiss and (B) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Dkt. No. 23]. On January 14, 2026, the Court held a hearing on the Stay Motion. Counsel for both Daugherty and Highland Capital Management, L.P. ("Highland") argued the merits of the Stay Motion; however, neither Daugherty nor Highland offered any evidence in support of their legal arguments. Because the Court finds that Daugherty did not satisfy his burden under prevailing Fifth Circuit precedent, the Court denies the Stay Motion.

Jurisdiction

The Court has jurisdiction over the Stay Motion pursuant to 28 U.S.C. § 1334 and the Northern District of Texas's *Order of Reference of Bankruptcy Cases and Proceedings* Nunc Pro Tunc. Misc. Order No. 33 (N.D. Tex. Aug. 3, 1984). Consideration of the Stay Motion is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper in this District and Division pursuant to 28 U.S.C. § 1409.

Procedural History

The issues articulated in the Stay Motion arise well before the commencement of this adversary proceeding. First, the Court confirmed Highland's chapter 11 plan. Case No. 19-34054, Dkt. No. 1943. The plan provided for the creation of a Claimant Trust to be administered by its trustee, James P. Seery, Jr. *Id.* at 102, 122–24. The Claimant Trust was created on the effective date of the plan. *Id.* at 102, 122. The trust agreement provides that the Claimant Trust will dissolve upon resolution of all

Disputed Claims and Equity Interests, as defined in the plan, but no later than five years from the effective date of the plan.[2] *Id.* at 105, 128, 140; Case No. 19-34054, Dkt. No. 1656-2 at 34. The five-year period expires on August 11, 2026. Case No. 19-34054, Dkt. No. 4298.

Second, the Court approved a settlement between Highland and Daugherty. *Id.*, Dkt. No. 3298. As part of the settlement, Daugherty retained a contingent, unliquidated claim (the "Reserved Claim") against the bankruptcy estate related to Highland's 2008 tax return which remains under audit by the IRS. *Id.*, Dkt. No. 3089-1. Depending on the result of the IRS audit, Daugherty asserts he could incur a tax liability for which Highland has agreed to indemnify him. Highland and Daugherty agreed, as part of the settlement, to stay any litigation concerning the Reserved Claim until the IRS completed its audit. *Id.*

Unfortunately, the IRS audit does not appear to be complete, and completion does not appear to be on the horizon before the August 11, 2026, dissolution of the Claimant Trust. For this reason, Highland filed its complaint seeking to disallow Daugherty's Reserved Claim, to estimate Daugherty's Reserved Claim under 11 U.S.C. § 502, and, to the extent the Reserved Claim is allowed, to subordinate the Reserved Claim pursuant to 11 U.S.C. § 510(b). *See* Dkt. No. 1.

[2] The Claimant Trust Agreement provides for an initial period of three years, but the Court may extend the period for up to an additional two years. The Court has previously extended the three-year period to the maximum five-year period.

Because the settlement agreement provided for a stay of any litigation regarding the Reserved Claim, Daugherty filed his *Motion to Dismiss* this adversary proceeding under Rule 12(b)(6). Dkt. No. 5.

With its objection to the *Motion to Dismiss*, Highland moved for relief (the "Cross Motion") from the Court's order approving the settlement agreement pursuant to Rule 9024 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Cross Motion asked the Court to strike from the settlement agreement the language preventing litigation of the Reserved Claim. Dkt. Nos. 9, 10.[3]

After considering the *Motion to Dismiss* and Highland's Cross Motion, the Court entered its order (the "Settlement Modification Order") denying the *Motion to Dismiss*, granting the Cross Motion, and striking the litigation stay language in the settlement agreement. Dkt. No. 23.

On September 19, 2025, Daugherty filed his *Notice of Appeal*. Dkt, No. 25. Pursuant to the Notice of Appeal, Daugherty appealed only the Court's Stay Modification Order "to the extent it granted relief under Rule 60(b)."[4] *Id.* at 2. Daugherty did not appeal the Court's denial of his *Motion to Dismiss*.

On September 26, 2025, Daugherty filed the Stay Motion seeking to stay this adversary proceeding pending Daugherty's appeal of the Settlement Modification Order.

---

[3] Because the objection responded to Daugherty's *Motion to Dismiss* and sought affirmative relief as part of Highland's Cross Motion, the pleading was docketed twice, once as the objection to the *Motion to Dismiss* and once as the Cross Motion.

[4] Bankruptcy Rule 9024 makes applicable to bankruptcy cases Rule 60 of the Federal Rules of Civil Procedure.

Discussion

Bankruptcy Rule 8007 provides the procedure for seeking a stay of a bankruptcy court's order or judgment pending its appeal. FED. R. BANKR. P. 8007. Typically, the appellant must move first in the bankruptcy court for a stay pending appeal. *Id.* 8007(a)(1)(A), (D). Granting a stay is left to the discretion of the court. *See Arnold v. Garlock*, 278 F.3d 426, 438 (5th Cir. 2001). And a stay pending appeal "is an extraordinary remedy." *Garcia Grain Trading Corp. v. Plascencia* (*In re Garcia Grain Trading Corp.*), No. 23-7002, 2025 WL 2730614, at *3 (Bankr. S.D. Tex. Sept. 24, 2025) (quoting *Smith v. Smith*, No. 6:21-CV-01244-ADA-DTG, 2022 WL 3566453, at *1 (W.D. Tex. July 1, 2022)).

In the Fifth Circuit, courts employ a four-part test to determine whether a stay pending appeal is merited. *See Arnold*, 278 F.3d at 438. The movant must show (1) a likelihood of success on the merits of the appeal; (2) irreparable harm to the movant if the stay is not granted; (3) lack of substantial harm to the non-moving parties if the stay is granted; and (4) benefit to the public interest if the stay is granted. *Id.* at 439–42; *Culwell v. Tex. Equip. Co.* (*In re Tex. Equip. Co.*), 283 B.R. 222, 226–27 (Bankr. N.D. Tex. 2002) (Jones, J., ret.).

> While each part must be met, the appellant need not always show a probability of success on the merits; instead, the movant need only present a substantial case on the merits when a serious legal question is involved and show that the balance of the equities weighs heavily in favor of granting the stay.

Arnold, 278 F.3d at 438–39 (citation modified). However, "if the balance of the equities (*i.e.*, consideration of the other three factors) is not heavily tilted in the movant's favor, the movant must then make a more substantial showing of likelihood

of success on the merits" for the court to grant a stay. *Ruiz v. Estelle*, 650 F.2d 555, 565–66 (5th Cir. 1981).

The movant bears the burden to prove by a preponderance of the evidence that the stay is warranted. *See Garcia Grain*, 2025 WL 2730614, at *3; *Collier v. Hodge*, No. 15-CV-2119, 2015 WL 5016485, at *1 (W.D. La. Aug. 21, 2015). Here, Daugherty bears the burden to prove by a preponderance of the evidence that he is entitled to a stay of these proceedings.

I. Likelihood of Success on the Merits

Daugherty argues the issue on appeal—modification of the settlement agreement pursuant to Rule 60(b)—is a serious legal question for which he must only show a substantial case on the merits. Daugherty cites several cases which hold that a court should not modify agreements reached between the parties after free, calculated, and deliberate choices were made. *See* Dkt. No. 33 at 7–8. Daugherty asserts that the Court should not have modified the settlement agreement by striking the negotiated Reserved Claim litigation stay.

Highland argues that Daugherty cannot meet his burden to prove a likelihood of success on the merits for two reasons: (1) the Settlement Modification Order is interlocutory, and Daugherty failed to acquire leave to appeal an interlocutory order; and (2) Daugherty cannot show that the Court abused its discretion in granting the Cross Motion pursuant to Rule 60(b).

The Court disagrees with Highland that the Settlement Modification Order is an interlocutory order. Daugherty expressly appeals only the relief granted under

Rule 60(b). Dkt. No. 25 at 2. The Court granted the Cross Motion modifying its order approving the settlement agreement. The order approving the settlement agreement was a final order. Any modification of it would likewise be a final, appealable order. This Court believes the Settlement Modification Order is a final, appealable order.[5]

The Court does agree with Highland, though, that Daugherty failed to meet his burden to prove a likelihood of success on the merits. "[T]he decision to grant or deny relief under Rule 60(b) lies within the sound discretion of the district court and will be reversed only for abuse of discretion." *Edwards v. City of Houston*, 78 F.3d 983, 995 (5th Cir. 1996). Though Daugherty asserts modifying settlement agreements is disfavored, he failed to demonstrate how the Court abused its discretion when it balanced the Claimant Trust's impending dissolution deadline with the settlement agreement's litigation stay provision and determined to strike the litigation stay provision. Co-existence of these conflicting provisions does not appear possible considering the IRS audit may last several more years.

Further, Daugherty failed to establish how the Court's order striking the litigation stay provision constitutes a serious legal question. *See Garcia Grain*, 2025 WL 2730614, at *5 (finding movant failed to establish a substantial likelihood of success on its appeal because movant failed to support with evidence the argument that the sanction dispute was a serious legal question). "Serious legal questions have far-reaching effects or are matters of public concern that go well beyond the interests

[5] As discussed further in analyzing irreparable harm, the Court does agree with Highland that the Settlement Modification Order did not dispose of the adversary proceeding, which creates a problem for Daugherty to meet his burden of showing irreparable harm if the stay is not granted.

of the parties." *Hernandez v. Erazo*, No. 23-50281, 2023 WL 3175471, at *5 (5th Cir. May 1, 2023) (citation modified). A serious legal question does not exist just because the issue on appeal concerns whether the lower court correctly applied established legal standards to the facts of the case. *See id.* Therefore, even if Daugherty's argument is that the Court failed to follow the established law on modifying settlement agreements, it does not mean the issue on appeal constitutes a serious legal question.

Finally, as explained more fully below, Daugherty fails to meet the other factors for a stay. Even if the Court were to apply a more lenient standard for demonstrating a likelihood of success on the merits, the balance of the equities does not weigh heavily in favor of granting a stay. *See Arnold*, 278 F.3d at 439.

For these reasons, the Court finds Daugherty has failed to establish a likelihood of success on the merits.

II. Irreparable Injury if the Stay is Not Granted

At the hearing, Daugherty's arguments about irreparable harm were two-fold. First, Daugherty alleges that litigating the claim will be costly and may not be necessary at all if the IRS does not issue any assessment under the 2008 audit. Second, Daugherty argues that he will not have any effective remedies if the litigation is not stayed because, if the Court disallows the Reserved Claim and the IRS issues an assessment for which Daugherty has additional tax liability, Daugherty will not have recourse for his payment of additional tax liability once Highland's plan is fully consummated.

Daugherty makes both these arguments without presenting any evidence to establish that either will cause irreparable harm to him if the Court does not grant the stay. Daugherty had the burden to prove by a preponderance of the evidence irreparable harm. He did not meet his burden.

Regardless of the lack of evidence of irreparable harm, the Court finds that Daugherty will not be irreparably harmed if the stay is not granted. First, Daugherty appealed only that portion of the Settlement Modification Order that disturbed the terms of the settlement agreement. Daugherty did not appeal the Court's denial of his *Motion to Dismiss*. If Daugherty is successful in his appeal, and the district court reverses the modification of the settlement agreement, it does not resolve or dismiss this adversary proceeding. Reversal will only result in the stay provision remaining in effect. Daugherty may either seek summary judgment on the same grounds he raised in his *Motion to Dismiss* or have a claim against Highland for breach of the settlement agreement. In either scenario, Daugherty will still be required to litigate in this adversary proceeding.

Second, under 11 U.S.C. § 502(c), Highland invokes the statutory process of estimating a contingent, unliquidated claim for allowance. Congress created this process for this exact situation—a contingent, unliquidated claim that needs to be liquidated to avoid undue delay in administering a bankruptcy case. The process affords Daugherty effective remedies.

This adversary proceeding is about whether the Reserved Claim should be allowed or disallowed. Daugherty is entitled to prove that the Reserved Claim should

be allowed, in what amount, and in what priority. He does not lose that right if a stay is not imposed. Further, Daugherty maintains his right to appeal any order or judgment finding the Reserved Claim is disallowed, allowed in a lesser amount than he believes is supported by evidence, or subordinated to other claims. Likewise, Highland set aside approximately $2.7 million to pay the Reserved Claim if it is allowed.[6] Thus, funds are available to pay Daugherty.

While Daugherty presumes the worst in his arguments, if this adversary proceeds to judgment in favor of Daugherty, then Daugherty may receive a windfall. Highland's counsel acknowledged that if the Court allows the Reserved Claim, Highland will be obligated to pay it even if the IRS does not issue an assessment causing Daugherty to pay additional tax liability.

For these reasons, Daugherty failed to show irreparable harm if the stay is not granted.

III. Lack of Substantial Harm to the Non-moving Parties if the Stay is Granted

Daugherty argues that neither Highland nor other parties will be harmed if the stay is granted. Daugherty asserts that a stay would prevent "costly and time-consuming litigation that could prove to be an empty gesture depending on the results of the IRS'[s] audit." Dkt. No. 33 at 10. Daugherty likewise argues the stay simply maintains the bargain for which Highland negotiated and agreed to as part of the settlement agreement.

[6] During the hearing, Highland's counsel represented to the Court that $2.7 million is set aside as a reserve for the Reserved Claim.

Again, Daugherty makes these arguments without having presented any evidence to establish the lack of substantial harm to the non-moving parties. Daugherty had the burden to prove by a preponderance of the evidence a lack of substantial harm to Highland and others. He did not meet his burden.

While no evidence was presented by either party, it stands to reason that if a stay is imposed, then determination of the Reserved Claim will be further delayed.[7] Counsel for Daugherty and Highland were unable to give the Court a reasonable estimate as to when the IRS would issue a "final determination" of the 2008 audit.[8] Waiting until the IRS makes a "final determination" delays the administration of this bankruptcy case. As stated, Highland reserved funds to cover the Reserved Claim. If the Reserved Claim is less than the reserved funds, additional funds can be paid to other creditors; however, this cannot be done until the Reserved Claim is resolved. Resolution of the Reserved Claim benefits creditors, including Daugherty, as they can be paid what they are owed under the plan. The opposite is true as well—delay in resolving the Reserved Claim harms creditors.

For these reasons, Daugherty failed to show a lack of substantial harm to non-moving parties if the stay is granted.

IV. Benefit to the Public Interest if a Stay is Granted

Daugherty argues the public has an interest in assuring that courts uphold settlement agreements. Daugherty further asserts that a stay in this case promotes

[7] Trial in this adversary proceeding is currently scheduled for April 8, 2026.

[8] The Court notes that Highland's counsel argued that the IRS already issued a "final determination." Yet, no evidence of said "final determination" was submitted to the Court.

judicial economy.

The Court disagrees with Daugherty's arguments. As explained above, the Bankruptcy Code specifically provides for estimation of contingent, unliquidated claims. *See* 11 U.S.C. § 502(c). The public policy behind the estimation process is to orderly administer bankruptcy cases and to prevent undue delay in their administration. *See id.; In re Perry*, 425 B.R. 323, 381 (Bankr. S.D. Tex. 2010). Thus, a stay pending appeal does not benefit the public interest in this case.

Further, the issue on appeal is a two-party dispute. The modification of the settlement agreement only affects Daugherty and Highland. Reversal of the Settlement Modification Order does not bestow upon the public any greater rights or benefits.

The Court, likewise, does not find Daugherty's judicial economy argument persuasive. Even if the district court reverses the Settlement Modification Order, as set forth above, the adversary proceeding will continue. Daugherty did not appeal the Court's denial of the *Motion to Dismiss*. While Daugherty implies a reversal somehow resolves this adversary proceeding, the Court does not agree. Procedurally, Daugherty would have to seek summary judgment on his claim that the settlement agreement bars the litigation until a "final determination" by the IRS. Thus, the Court will still proceed with the adversary proceeding.

For these reasons, Daugherty failed to show that public interests favor imposition of a stay.

Conclusion

Daugherty failed to meet his burden to prove he is entitled to a stay pending appeal of the Settlement Modification Order.

IT IS, THEREFORE, ORDERED that the Stay Motion is DENIED.

###End of Memorandum Opinion and Order###

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 26, 2026

United States Bankruptcy Judge

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

In Re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054
	§	Chapter 11
Debtor.	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adversary No. 25-03055
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION AND ORDER

Before the Court is Defendant's, Patrick Hagaman Daugherty ("Daugherty"), *Motion for Stay Pending Appeal* ("Stay Motion") [Dkt. No. 33].[1] The Stay Motion asks

[1] Unless otherwise stated, "Dkt. No." refers to the numbered docket entry in the Court's electronic case file for Adversary No. 25-03055.

the Court to stay this adversary proceeding pending Daugherty's appeal to the district court of this Court's *Order (A) Denying Patrick Daugherty's Motion to Dismiss and (B) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Dkt. No. 23]. On January 14, 2026, the Court held a hearing on the Stay Motion. Counsel for both Daugherty and Highland Capital Management, L.P. ("Highland") argued the merits of the Stay Motion; however, neither Daugherty nor Highland offered any evidence in support of their legal arguments. Because the Court finds that Daugherty did not satisfy his burden under prevailing Fifth Circuit precedent, the Court denies the Stay Motion.

Jurisdiction

The Court has jurisdiction over the Stay Motion pursuant to 28 U.S.C. § 1334 and the Northern District of Texas's *Order of Reference of Bankruptcy Cases and Proceedings* Nunc Pro Tunc. Misc. Order No. 33 (N.D. Tex. Aug. 3, 1984). Consideration of the Stay Motion is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper in this District and Division pursuant to 28 U.S.C. § 1409.

Procedural History

The issues articulated in the Stay Motion arise well before the commencement of this adversary proceeding. First, the Court confirmed Highland's chapter 11 plan. Case No. 19-34054, Dkt. No. 1943. The plan provided for the creation of a Claimant Trust to be administered by its trustee, James P. Seery, Jr. *Id.* at 102, 122–24. The Claimant Trust was created on the effective date of the plan. *Id.* at 102, 122. The trust agreement provides that the Claimant Trust will dissolve upon resolution of all

Disputed Claims and Equity Interests, as defined in the plan, but no later than five years from the effective date of the plan.[2] *Id.* at 105, 128, 140; Case No. 19-34054, Dkt. No. 1656-2 at 34. The five-year period expires on August 11, 2026. Case No. 19-34054, Dkt. No. 4298.

Second, the Court approved a settlement between Highland and Daugherty. *Id.*, Dkt. No. 3298. As part of the settlement, Daugherty retained a contingent, unliquidated claim (the "Reserved Claim") against the bankruptcy estate related to Highland's 2008 tax return which remains under audit by the IRS. *Id.*, Dkt. No. 3089-1. Depending on the result of the IRS audit, Daugherty asserts he could incur a tax liability for which Highland has agreed to indemnify him. Highland and Daugherty agreed, as part of the settlement, to stay any litigation concerning the Reserved Claim until the IRS completed its audit. *Id.*

Unfortunately, the IRS audit does not appear to be complete, and completion does not appear to be on the horizon before the August 11, 2026, dissolution of the Claimant Trust. For this reason, Highland filed its complaint seeking to disallow Daugherty's Reserved Claim, to estimate Daugherty's Reserved Claim under 11 U.S.C. § 502, and, to the extent the Reserved Claim is allowed, to subordinate the Reserved Claim pursuant to 11 U.S.C. § 510(b). *See* Dkt. No. 1.

[2] The Claimant Trust Agreement provides for an initial period of three years, but the Court may extend the period for up to an additional two years. The Court has previously extended the three-year period to the maximum five-year period.

Because the settlement agreement provided for a stay of any litigation regarding the Reserved Claim, Daugherty filed his *Motion to Dismiss* this adversary proceeding under Rule 12(b)(6). Dkt. No. 5.

With its objection to the *Motion to Dismiss*, Highland moved for relief (the "Cross Motion") from the Court's order approving the settlement agreement pursuant to Rule 9024 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Cross Motion asked the Court to strike from the settlement agreement the language preventing litigation of the Reserved Claim. Dkt. Nos. 9, 10.[3]

After considering the *Motion to Dismiss* and Highland's Cross Motion, the Court entered its order (the "Settlement Modification Order") denying the *Motion to Dismiss*, granting the Cross Motion, and striking the litigation stay language in the settlement agreement. Dkt. No. 23.

On September 19, 2025, Daugherty filed his *Notice of Appeal*. Dkt, No. 25. Pursuant to the Notice of Appeal, Daugherty appealed only the Court's Stay Modification Order "to the extent it granted relief under Rule 60(b)."[4] *Id.* at 2. Daugherty did not appeal the Court's denial of his *Motion to Dismiss*.

On September 26, 2025, Daugherty filed the Stay Motion seeking to stay this adversary proceeding pending Daugherty's appeal of the Settlement Modification Order.

---

[3] Because the objection responded to Daugherty's *Motion to Dismiss* and sought affirmative relief as part of Highland's Cross Motion, the pleading was docketed twice, once as the objection to the *Motion to Dismiss* and once as the Cross Motion.

[4] Bankruptcy Rule 9024 makes applicable to bankruptcy cases Rule 60 of the Federal Rules of Civil Procedure.

Discussion

Bankruptcy Rule 8007 provides the procedure for seeking a stay of a bankruptcy court's order or judgment pending its appeal. FED. R. BANKR. P. 8007. Typically, the appellant must move first in the bankruptcy court for a stay pending appeal. *Id.* 8007(a)(1)(A), (D). Granting a stay is left to the discretion of the court. *See Arnold v. Garlock*, 278 F.3d 426, 438 (5th Cir. 2001). And a stay pending appeal "is an extraordinary remedy." *Garcia Grain Trading Corp. v. Plascencia* (*In re Garcia Grain Trading Corp.*), No. 23-7002, 2025 WL 2730614, at *3 (Bankr. S.D. Tex. Sept. 24, 2025) (quoting *Smith v. Smith*, No. 6:21-CV-01244-ADA-DTG, 2022 WL 3566453, at *1 (W.D. Tex. July 1, 2022)).

In the Fifth Circuit, courts employ a four-part test to determine whether a stay pending appeal is merited. *See Arnold*, 278 F.3d at 438. The movant must show (1) a likelihood of success on the merits of the appeal; (2) irreparable harm to the movant if the stay is not granted; (3) lack of substantial harm to the non-moving parties if the stay is granted; and (4) benefit to the public interest if the stay is granted. *Id.* at 439–42; *Culwell v. Tex. Equip. Co.* (*In re Tex. Equip. Co.*), 283 B.R. 222, 226–27 (Bankr. N.D. Tex. 2002) (Jones, J., ret.).

> While each part must be met, the appellant need not always show a probability of success on the merits; instead, the movant need only present a substantial case on the merits when a serious legal question is involved and show that the balance of the equities weighs heavily in favor of granting the stay.

Arnold, 278 F.3d at 438–39 (citation modified). However, "if the balance of the equities (*i.e.*, consideration of the other three factors) is not heavily tilted in the movant's favor, the movant must then make a more substantial showing of likelihood

of success on the merits" for the court to grant a stay. *Ruiz v. Estelle*, 650 F.2d 555, 565–66 (5th Cir. 1981).

The movant bears the burden to prove by a preponderance of the evidence that the stay is warranted. *See Garcia Grain*, 2025 WL 2730614, at *3; *Collier v. Hodge*, No. 15-CV-2119, 2015 WL 5016485, at *1 (W.D. La. Aug. 21, 2015). Here, Daugherty bears the burden to prove by a preponderance of the evidence that he is entitled to a stay of these proceedings.

I. Likelihood of Success on the Merits

Daugherty argues the issue on appeal—modification of the settlement agreement pursuant to Rule 60(b)—is a serious legal question for which he must only show a substantial case on the merits. Daugherty cites several cases which hold that a court should not modify agreements reached between the parties after free, calculated, and deliberate choices were made. *See* Dkt. No. 33 at 7–8. Daugherty asserts that the Court should not have modified the settlement agreement by striking the negotiated Reserved Claim litigation stay.

Highland argues that Daugherty cannot meet his burden to prove a likelihood of success on the merits for two reasons: (1) the Settlement Modification Order is interlocutory, and Daugherty failed to acquire leave to appeal an interlocutory order; and (2) Daugherty cannot show that the Court abused its discretion in granting the Cross Motion pursuant to Rule 60(b).

The Court disagrees with Highland that the Settlement Modification Order is an interlocutory order. Daugherty expressly appeals only the relief granted under

Rule 60(b). Dkt. No. 25 at 2. The Court granted the Cross Motion modifying its order approving the settlement agreement. The order approving the settlement agreement was a final order. Any modification of it would likewise be a final, appealable order. This Court believes the Settlement Modification Order is a final, appealable order.[5]

The Court does agree with Highland, though, that Daugherty failed to meet his burden to prove a likelihood of success on the merits. "[T]he decision to grant or deny relief under Rule 60(b) lies within the sound discretion of the district court and will be reversed only for abuse of discretion." *Edwards v. City of Houston*, 78 F.3d 983, 995 (5th Cir. 1996). Though Daugherty asserts modifying settlement agreements is disfavored, he failed to demonstrate how the Court abused its discretion when it balanced the Claimant Trust's impending dissolution deadline with the settlement agreement's litigation stay provision and determined to strike the litigation stay provision. Co-existence of these conflicting provisions does not appear possible considering the IRS audit may last several more years.

Further, Daugherty failed to establish how the Court's order striking the litigation stay provision constitutes a serious legal question. *See Garcia Grain*, 2025 WL 2730614, at *5 (finding movant failed to establish a substantial likelihood of success on its appeal because movant failed to support with evidence the argument that the sanction dispute was a serious legal question). "Serious legal questions have far-reaching effects or are matters of public concern that go well beyond the interests

[5] As discussed further in analyzing irreparable harm, the Court does agree with Highland that the Settlement Modification Order did not dispose of the adversary proceeding, which creates a problem for Daugherty to meet his burden of showing irreparable harm if the stay is not granted.

of the parties." *Hernandez v. Erazo*, No. 23-50281, 2023 WL 3175471, at *5 (5th Cir. May 1, 2023) (citation modified). A serious legal question does not exist just because the issue on appeal concerns whether the lower court correctly applied established legal standards to the facts of the case. *See id.* Therefore, even if Daugherty's argument is that the Court failed to follow the established law on modifying settlement agreements, it does not mean the issue on appeal constitutes a serious legal question.

Finally, as explained more fully below, Daugherty fails to meet the other factors for a stay. Even if the Court were to apply a more lenient standard for demonstrating a likelihood of success on the merits, the balance of the equities does not weigh heavily in favor of granting a stay. *See Arnold*, 278 F.3d at 439.

For these reasons, the Court finds Daugherty has failed to establish a likelihood of success on the merits.

II. Irreparable Injury if the Stay is Not Granted

At the hearing, Daugherty's arguments about irreparable harm were two-fold. First, Daugherty alleges that litigating the claim will be costly and may not be necessary at all if the IRS does not issue any assessment under the 2008 audit. Second, Daugherty argues that he will not have any effective remedies if the litigation is not stayed because, if the Court disallows the Reserved Claim and the IRS issues an assessment for which Daugherty has additional tax liability, Daugherty will not have recourse for his payment of additional tax liability once Highland's plan is fully consummated.

Daugherty makes both these arguments without presenting any evidence to establish that either will cause irreparable harm to him if the Court does not grant the stay. Daugherty had the burden to prove by a preponderance of the evidence irreparable harm. He did not meet his burden.

Regardless of the lack of evidence of irreparable harm, the Court finds that Daugherty will not be irreparably harmed if the stay is not granted. First, Daugherty appealed only that portion of the Settlement Modification Order that disturbed the terms of the settlement agreement. Daugherty did not appeal the Court's denial of his *Motion to Dismiss*. If Daugherty is successful in his appeal, and the district court reverses the modification of the settlement agreement, it does not resolve or dismiss this adversary proceeding. Reversal will only result in the stay provision remaining in effect. Daugherty may either seek summary judgment on the same grounds he raised in his *Motion to Dismiss* or have a claim against Highland for breach of the settlement agreement. In either scenario, Daugherty will still be required to litigate in this adversary proceeding.

Second, under 11 U.S.C. § 502(c), Highland invokes the statutory process of estimating a contingent, unliquidated claim for allowance. Congress created this process for this exact situation—a contingent, unliquidated claim that needs to be liquidated to avoid undue delay in administering a bankruptcy case. The process affords Daugherty effective remedies.

This adversary proceeding is about whether the Reserved Claim should be allowed or disallowed. Daugherty is entitled to prove that the Reserved Claim should

be allowed, in what amount, and in what priority. He does not lose that right if a stay is not imposed. Further, Daugherty maintains his right to appeal any order or judgment finding the Reserved Claim is disallowed, allowed in a lesser amount than he believes is supported by evidence, or subordinated to other claims. Likewise, Highland set aside approximately $2.7 million to pay the Reserved Claim if it is allowed.[6] Thus, funds are available to pay Daugherty.

While Daugherty presumes the worst in his arguments, if this adversary proceeds to judgment in favor of Daugherty, then Daugherty may receive a windfall. Highland's counsel acknowledged that if the Court allows the Reserved Claim, Highland will be obligated to pay it even if the IRS does not issue an assessment causing Daugherty to pay additional tax liability.

For these reasons, Daugherty failed to show irreparable harm if the stay is not granted.

III. Lack of Substantial Harm to the Non-moving Parties if the Stay is Granted

Daugherty argues that neither Highland nor other parties will be harmed if the stay is granted. Daugherty asserts that a stay would prevent "costly and time-consuming litigation that could prove to be an empty gesture depending on the results of the IRS'[s] audit." Dkt. No. 33 at 10. Daugherty likewise argues the stay simply maintains the bargain for which Highland negotiated and agreed to as part of the settlement agreement.

[6] During the hearing, Highland's counsel represented to the Court that $2.7 million is set aside as a reserve for the Reserved Claim.

Again, Daugherty makes these arguments without having presented any evidence to establish the lack of substantial harm to the non-moving parties. Daugherty had the burden to prove by a preponderance of the evidence a lack of substantial harm to Highland and others. He did not meet his burden.

While no evidence was presented by either party, it stands to reason that if a stay is imposed, then determination of the Reserved Claim will be further delayed.[7] Counsel for Daugherty and Highland were unable to give the Court a reasonable estimate as to when the IRS would issue a "final determination" of the 2008 audit.[8] Waiting until the IRS makes a "final determination" delays the administration of this bankruptcy case. As stated, Highland reserved funds to cover the Reserved Claim. If the Reserved Claim is less than the reserved funds, additional funds can be paid to other creditors; however, this cannot be done until the Reserved Claim is resolved. Resolution of the Reserved Claim benefits creditors, including Daugherty, as they can be paid what they are owed under the plan. The opposite is true as well—delay in resolving the Reserved Claim harms creditors.

For these reasons, Daugherty failed to show a lack of substantial harm to non-moving parties if the stay is granted.

IV. Benefit to the Public Interest if a Stay is Granted

Daugherty argues the public has an interest in assuring that courts uphold settlement agreements. Daugherty further asserts that a stay in this case promotes

[7] Trial in this adversary proceeding is currently scheduled for April 8, 2026.

[8] The Court notes that Highland's counsel argued that the IRS already issued a "final determination." Yet, no evidence of said "final determination" was submitted to the Court.

judicial economy.

The Court disagrees with Daugherty's arguments. As explained above, the Bankruptcy Code specifically provides for estimation of contingent, unliquidated claims. *See* 11 U.S.C. § 502(c). The public policy behind the estimation process is to orderly administer bankruptcy cases and to prevent undue delay in their administration. *See id.; In re Perry*, 425 B.R. 323, 381 (Bankr. S.D. Tex. 2010). Thus, a stay pending appeal does not benefit the public interest in this case.

Further, the issue on appeal is a two-party dispute. The modification of the settlement agreement only affects Daugherty and Highland. Reversal of the Settlement Modification Order does not bestow upon the public any greater rights or benefits.

The Court, likewise, does not find Daugherty's judicial economy argument persuasive. Even if the district court reverses the Settlement Modification Order, as set forth above, the adversary proceeding will continue. Daugherty did not appeal the Court's denial of the *Motion to Dismiss*. While Daugherty implies a reversal somehow resolves this adversary proceeding, the Court does not agree. Procedurally, Daugherty would have to seek summary judgment on his claim that the settlement agreement bars the litigation until a "final determination" by the IRS. Thus, the Court will still proceed with the adversary proceeding.

For these reasons, Daugherty failed to show that public interests favor imposition of a stay.

Conclusion

Daugherty failed to meet his burden to prove he is entitled to a stay pending appeal of the Settlement Modification Order.

IT IS, THEREFORE, ORDERED that the Stay Motion is DENIED.

###End of Memorandum Opinion and Order###

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 26, 2026

United States Bankruptcy Judge

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

In Re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054
	§	Chapter 11
Debtor.	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adversary No. 25-03055
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION AND ORDER

Before the Court is Defendant's, Patrick Hagaman Daugherty ("Daugherty"), *Motion for Stay Pending Appeal* ("Stay Motion") [Dkt. No. 33].[1] The Stay Motion asks

[1] Unless otherwise stated, "Dkt. No." refers to the numbered docket entry in the Court's electronic case file for Adversary No. 25-03055.

the Court to stay this adversary proceeding pending Daugherty's appeal to the district court of this Court's *Order (A) Denying Patrick Daugherty's Motion to Dismiss and (B) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Dkt. No. 23]. On January 14, 2026, the Court held a hearing on the Stay Motion. Counsel for both Daugherty and Highland Capital Management, L.P. ("Highland") argued the merits of the Stay Motion; however, neither Daugherty nor Highland offered any evidence in support of their legal arguments. Because the Court finds that Daugherty did not satisfy his burden under prevailing Fifth Circuit precedent, the Court denies the Stay Motion.

Jurisdiction

The Court has jurisdiction over the Stay Motion pursuant to 28 U.S.C. § 1334 and the Northern District of Texas's *Order of Reference of Bankruptcy Cases and Proceedings* Nunc Pro Tunc. Misc. Order No. 33 (N.D. Tex. Aug. 3, 1984). Consideration of the Stay Motion is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper in this District and Division pursuant to 28 U.S.C. § 1409.

Procedural History

The issues articulated in the Stay Motion arise well before the commencement of this adversary proceeding. First, the Court confirmed Highland's chapter 11 plan. Case No. 19-34054, Dkt. No. 1943. The plan provided for the creation of a Claimant Trust to be administered by its trustee, James P. Seery, Jr. *Id.* at 102, 122–24. The Claimant Trust was created on the effective date of the plan. *Id.* at 102, 122. The trust agreement provides that the Claimant Trust will dissolve upon resolution of all

Disputed Claims and Equity Interests, as defined in the plan, but no later than five years from the effective date of the plan.[2] *Id.* at 105, 128, 140; Case No. 19-34054, Dkt. No. 1656-2 at 34. The five-year period expires on August 11, 2026. Case No. 19-34054, Dkt. No. 4298.

Second, the Court approved a settlement between Highland and Daugherty. *Id.*, Dkt. No. 3298. As part of the settlement, Daugherty retained a contingent, unliquidated claim (the "Reserved Claim") against the bankruptcy estate related to Highland's 2008 tax return which remains under audit by the IRS. *Id.*, Dkt. No. 3089-1. Depending on the result of the IRS audit, Daugherty asserts he could incur a tax liability for which Highland has agreed to indemnify him. Highland and Daugherty agreed, as part of the settlement, to stay any litigation concerning the Reserved Claim until the IRS completed its audit. *Id.*

Unfortunately, the IRS audit does not appear to be complete, and completion does not appear to be on the horizon before the August 11, 2026, dissolution of the Claimant Trust. For this reason, Highland filed its complaint seeking to disallow Daugherty's Reserved Claim, to estimate Daugherty's Reserved Claim under 11 U.S.C. § 502, and, to the extent the Reserved Claim is allowed, to subordinate the Reserved Claim pursuant to 11 U.S.C. § 510(b). *See* Dkt. No. 1.

[2] The Claimant Trust Agreement provides for an initial period of three years, but the Court may extend the period for up to an additional two years. The Court has previously extended the three-year period to the maximum five-year period.

Because the settlement agreement provided for a stay of any litigation regarding the Reserved Claim, Daugherty filed his *Motion to Dismiss* this adversary proceeding under Rule 12(b)(6). Dkt. No. 5.

With its objection to the *Motion to Dismiss*, Highland moved for relief (the "Cross Motion") from the Court's order approving the settlement agreement pursuant to Rule 9024 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Cross Motion asked the Court to strike from the settlement agreement the language preventing litigation of the Reserved Claim. Dkt. Nos. 9, 10.[3]

After considering the *Motion to Dismiss* and Highland's Cross Motion, the Court entered its order (the "Settlement Modification Order") denying the *Motion to Dismiss*, granting the Cross Motion, and striking the litigation stay language in the settlement agreement. Dkt. No. 23.

On September 19, 2025, Daugherty filed his *Notice of Appeal*. Dkt, No. 25. Pursuant to the Notice of Appeal, Daugherty appealed only the Court's Stay Modification Order "to the extent it granted relief under Rule 60(b)."[4] *Id.* at 2. Daugherty did not appeal the Court's denial of his *Motion to Dismiss*.

On September 26, 2025, Daugherty filed the Stay Motion seeking to stay this adversary proceeding pending Daugherty's appeal of the Settlement Modification Order.

---

[3] Because the objection responded to Daugherty's *Motion to Dismiss* and sought affirmative relief as part of Highland's Cross Motion, the pleading was docketed twice, once as the objection to the *Motion to Dismiss* and once as the Cross Motion.

[4] Bankruptcy Rule 9024 makes applicable to bankruptcy cases Rule 60 of the Federal Rules of Civil Procedure.

Discussion

Bankruptcy Rule 8007 provides the procedure for seeking a stay of a bankruptcy court's order or judgment pending its appeal. FED. R. BANKR. P. 8007. Typically, the appellant must move first in the bankruptcy court for a stay pending appeal. *Id.* 8007(a)(1)(A), (D). Granting a stay is left to the discretion of the court. *See Arnold v. Garlock*, 278 F.3d 426, 438 (5th Cir. 2001). And a stay pending appeal "is an extraordinary remedy." *Garcia Grain Trading Corp. v. Plascencia* (*In re Garcia Grain Trading Corp.*), No. 23-7002, 2025 WL 2730614, at *3 (Bankr. S.D. Tex. Sept. 24, 2025) (quoting *Smith v. Smith*, No. 6:21-CV-01244-ADA-DTG, 2022 WL 3566453, at *1 (W.D. Tex. July 1, 2022)).

In the Fifth Circuit, courts employ a four-part test to determine whether a stay pending appeal is merited. *See Arnold*, 278 F.3d at 438. The movant must show (1) a likelihood of success on the merits of the appeal; (2) irreparable harm to the movant if the stay is not granted; (3) lack of substantial harm to the non-moving parties if the stay is granted; and (4) benefit to the public interest if the stay is granted. *Id.* at 439–42; *Culwell v. Tex. Equip. Co.* (*In re Tex. Equip. Co.*), 283 B.R. 222, 226–27 (Bankr. N.D. Tex. 2002) (Jones, J., ret.).

> While each part must be met, the appellant need not always show a probability of success on the merits; instead, the movant need only present a substantial case on the merits when a serious legal question is involved and show that the balance of the equities weighs heavily in favor of granting the stay.

Arnold, 278 F.3d at 438–39 (citation modified). However, "if the balance of the equities (*i.e.*, consideration of the other three factors) is not heavily tilted in the movant's favor, the movant must then make a more substantial showing of likelihood

of success on the merits" for the court to grant a stay. *Ruiz v. Estelle*, 650 F.2d 555, 565–66 (5th Cir. 1981).

The movant bears the burden to prove by a preponderance of the evidence that the stay is warranted. *See Garcia Grain*, 2025 WL 2730614, at *3; *Collier v. Hodge*, No. 15-CV-2119, 2015 WL 5016485, at *1 (W.D. La. Aug. 21, 2015). Here, Daugherty bears the burden to prove by a preponderance of the evidence that he is entitled to a stay of these proceedings.

I. Likelihood of Success on the Merits

Daugherty argues the issue on appeal—modification of the settlement agreement pursuant to Rule 60(b)—is a serious legal question for which he must only show a substantial case on the merits. Daugherty cites several cases which hold that a court should not modify agreements reached between the parties after free, calculated, and deliberate choices were made. *See* Dkt. No. 33 at 7–8. Daugherty asserts that the Court should not have modified the settlement agreement by striking the negotiated Reserved Claim litigation stay.

Highland argues that Daugherty cannot meet his burden to prove a likelihood of success on the merits for two reasons: (1) the Settlement Modification Order is interlocutory, and Daugherty failed to acquire leave to appeal an interlocutory order; and (2) Daugherty cannot show that the Court abused its discretion in granting the Cross Motion pursuant to Rule 60(b).

The Court disagrees with Highland that the Settlement Modification Order is an interlocutory order. Daugherty expressly appeals only the relief granted under

Rule 60(b). Dkt. No. 25 at 2. The Court granted the Cross Motion modifying its order approving the settlement agreement. The order approving the settlement agreement was a final order. Any modification of it would likewise be a final, appealable order. This Court believes the Settlement Modification Order is a final, appealable order.[5]

The Court does agree with Highland, though, that Daugherty failed to meet his burden to prove a likelihood of success on the merits. "[T]he decision to grant or deny relief under Rule 60(b) lies within the sound discretion of the district court and will be reversed only for abuse of discretion." *Edwards v. City of Houston*, 78 F.3d 983, 995 (5th Cir. 1996). Though Daugherty asserts modifying settlement agreements is disfavored, he failed to demonstrate how the Court abused its discretion when it balanced the Claimant Trust's impending dissolution deadline with the settlement agreement's litigation stay provision and determined to strike the litigation stay provision. Co-existence of these conflicting provisions does not appear possible considering the IRS audit may last several more years.

Further, Daugherty failed to establish how the Court's order striking the litigation stay provision constitutes a serious legal question. *See Garcia Grain*, 2025 WL 2730614, at *5 (finding movant failed to establish a substantial likelihood of success on its appeal because movant failed to support with evidence the argument that the sanction dispute was a serious legal question). "Serious legal questions have far-reaching effects or are matters of public concern that go well beyond the interests

[5] As discussed further in analyzing irreparable harm, the Court does agree with Highland that the Settlement Modification Order did not dispose of the adversary proceeding, which creates a problem for Daugherty to meet his burden of showing irreparable harm if the stay is not granted.

of the parties." *Hernandez v. Erazo*, No. 23-50281, 2023 WL 3175471, at *5 (5th Cir. May 1, 2023) (citation modified). A serious legal question does not exist just because the issue on appeal concerns whether the lower court correctly applied established legal standards to the facts of the case. *See id.* Therefore, even if Daugherty's argument is that the Court failed to follow the established law on modifying settlement agreements, it does not mean the issue on appeal constitutes a serious legal question.

Finally, as explained more fully below, Daugherty fails to meet the other factors for a stay. Even if the Court were to apply a more lenient standard for demonstrating a likelihood of success on the merits, the balance of the equities does not weigh heavily in favor of granting a stay. *See Arnold*, 278 F.3d at 439.

For these reasons, the Court finds Daugherty has failed to establish a likelihood of success on the merits.

II. Irreparable Injury if the Stay is Not Granted

At the hearing, Daugherty's arguments about irreparable harm were two-fold. First, Daugherty alleges that litigating the claim will be costly and may not be necessary at all if the IRS does not issue any assessment under the 2008 audit. Second, Daugherty argues that he will not have any effective remedies if the litigation is not stayed because, if the Court disallows the Reserved Claim and the IRS issues an assessment for which Daugherty has additional tax liability, Daugherty will not have recourse for his payment of additional tax liability once Highland's plan is fully consummated.

Daugherty makes both these arguments without presenting any evidence to establish that either will cause irreparable harm to him if the Court does not grant the stay. Daugherty had the burden to prove by a preponderance of the evidence irreparable harm. He did not meet his burden.

Regardless of the lack of evidence of irreparable harm, the Court finds that Daugherty will not be irreparably harmed if the stay is not granted. First, Daugherty appealed only that portion of the Settlement Modification Order that disturbed the terms of the settlement agreement. Daugherty did not appeal the Court's denial of his *Motion to Dismiss*. If Daugherty is successful in his appeal, and the district court reverses the modification of the settlement agreement, it does not resolve or dismiss this adversary proceeding. Reversal will only result in the stay provision remaining in effect. Daugherty may either seek summary judgment on the same grounds he raised in his *Motion to Dismiss* or have a claim against Highland for breach of the settlement agreement. In either scenario, Daugherty will still be required to litigate in this adversary proceeding.

Second, under 11 U.S.C. § 502(c), Highland invokes the statutory process of estimating a contingent, unliquidated claim for allowance. Congress created this process for this exact situation—a contingent, unliquidated claim that needs to be liquidated to avoid undue delay in administering a bankruptcy case. The process affords Daugherty effective remedies.

This adversary proceeding is about whether the Reserved Claim should be allowed or disallowed. Daugherty is entitled to prove that the Reserved Claim should

be allowed, in what amount, and in what priority. He does not lose that right if a stay is not imposed. Further, Daugherty maintains his right to appeal any order or judgment finding the Reserved Claim is disallowed, allowed in a lesser amount than he believes is supported by evidence, or subordinated to other claims. Likewise, Highland set aside approximately $2.7 million to pay the Reserved Claim if it is allowed.[6] Thus, funds are available to pay Daugherty.

While Daugherty presumes the worst in his arguments, if this adversary proceeds to judgment in favor of Daugherty, then Daugherty may receive a windfall. Highland's counsel acknowledged that if the Court allows the Reserved Claim, Highland will be obligated to pay it even if the IRS does not issue an assessment causing Daugherty to pay additional tax liability.

For these reasons, Daugherty failed to show irreparable harm if the stay is not granted.

III. Lack of Substantial Harm to the Non-moving Parties if the Stay is Granted

Daugherty argues that neither Highland nor other parties will be harmed if the stay is granted. Daugherty asserts that a stay would prevent "costly and time-consuming litigation that could prove to be an empty gesture depending on the results of the IRS'[s] audit." Dkt. No. 33 at 10. Daugherty likewise argues the stay simply maintains the bargain for which Highland negotiated and agreed to as part of the settlement agreement.

[6] During the hearing, Highland's counsel represented to the Court that $2.7 million is set aside as a reserve for the Reserved Claim.

Again, Daugherty makes these arguments without having presented any evidence to establish the lack of substantial harm to the non-moving parties. Daugherty had the burden to prove by a preponderance of the evidence a lack of substantial harm to Highland and others. He did not meet his burden.

While no evidence was presented by either party, it stands to reason that if a stay is imposed, then determination of the Reserved Claim will be further delayed.[7] Counsel for Daugherty and Highland were unable to give the Court a reasonable estimate as to when the IRS would issue a "final determination" of the 2008 audit.[8] Waiting until the IRS makes a "final determination" delays the administration of this bankruptcy case. As stated, Highland reserved funds to cover the Reserved Claim. If the Reserved Claim is less than the reserved funds, additional funds can be paid to other creditors; however, this cannot be done until the Reserved Claim is resolved. Resolution of the Reserved Claim benefits creditors, including Daugherty, as they can be paid what they are owed under the plan. The opposite is true as well—delay in resolving the Reserved Claim harms creditors.

For these reasons, Daugherty failed to show a lack of substantial harm to non-moving parties if the stay is granted.

IV. Benefit to the Public Interest if a Stay is Granted

Daugherty argues the public has an interest in assuring that courts uphold settlement agreements. Daugherty further asserts that a stay in this case promotes

[7] Trial in this adversary proceeding is currently scheduled for April 8, 2026.

[8] The Court notes that Highland's counsel argued that the IRS already issued a "final determination." Yet, no evidence of said "final determination" was submitted to the Court.

judicial economy.

The Court disagrees with Daugherty's arguments. As explained above, the Bankruptcy Code specifically provides for estimation of contingent, unliquidated claims. *See* 11 U.S.C. § 502(c). The public policy behind the estimation process is to orderly administer bankruptcy cases and to prevent undue delay in their administration. *See id.; In re Perry*, 425 B.R. 323, 381 (Bankr. S.D. Tex. 2010). Thus, a stay pending appeal does not benefit the public interest in this case.

Further, the issue on appeal is a two-party dispute. The modification of the settlement agreement only affects Daugherty and Highland. Reversal of the Settlement Modification Order does not bestow upon the public any greater rights or benefits.

The Court, likewise, does not find Daugherty's judicial economy argument persuasive. Even if the district court reverses the Settlement Modification Order, as set forth above, the adversary proceeding will continue. Daugherty did not appeal the Court's denial of the *Motion to Dismiss*. While Daugherty implies a reversal somehow resolves this adversary proceeding, the Court does not agree. Procedurally, Daugherty would have to seek summary judgment on his claim that the settlement agreement bars the litigation until a "final determination" by the IRS. Thus, the Court will still proceed with the adversary proceeding.

For these reasons, Daugherty failed to show that public interests favor imposition of a stay.

Conclusion

Daugherty failed to meet his burden to prove he is entitled to a stay pending appeal of the Settlement Modification Order.

IT IS, THEREFORE, ORDERED that the Stay Motion is DENIED.

###End of Memorandum Opinion and Order###

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Jan 26, 2026 Form ID: pdf001 Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 28, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Jan 26 2026 21:25:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jan 26 2026 21:25:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Jan 26 2026 21:25:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jan 26 2026 21:25:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 28, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 26, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 26, 2026

United States Bankruptcy Judge

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

In Re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054
	§	Chapter 11
Debtor.	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adversary No. 25-03055
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION AND ORDER

Before the Court is Defendant's, Patrick Hagaman Daugherty ("Daugherty"), *Motion for Stay Pending Appeal* ("Stay Motion") [Dkt. No. 33].[1] The Stay Motion asks

[1] Unless otherwise stated, "Dkt. No." refers to the numbered docket entry in the Court's electronic case file for Adversary No. 25-03055.

the Court to stay this adversary proceeding pending Daugherty's appeal to the district court of this Court's *Order (A) Denying Patrick Daugherty's Motion to Dismiss and (B) Granting Highland Capital Management, L.P.'s Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Dkt. No. 23]. On January 14, 2026, the Court held a hearing on the Stay Motion. Counsel for both Daugherty and Highland Capital Management, L.P. ("Highland") argued the merits of the Stay Motion; however, neither Daugherty nor Highland offered any evidence in support of their legal arguments. Because the Court finds that Daugherty did not satisfy his burden under prevailing Fifth Circuit precedent, the Court denies the Stay Motion.

Jurisdiction

The Court has jurisdiction over the Stay Motion pursuant to 28 U.S.C. § 1334 and the Northern District of Texas's *Order of Reference of Bankruptcy Cases and Proceedings* Nunc Pro Tunc. Misc. Order No. 33 (N.D. Tex. Aug. 3, 1984). Consideration of the Stay Motion is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper in this District and Division pursuant to 28 U.S.C. § 1409.

Procedural History

The issues articulated in the Stay Motion arise well before the commencement of this adversary proceeding. First, the Court confirmed Highland's chapter 11 plan. Case No. 19-34054, Dkt. No. 1943. The plan provided for the creation of a Claimant Trust to be administered by its trustee, James P. Seery, Jr. *Id.* at 102, 122–24. The Claimant Trust was created on the effective date of the plan. *Id.* at 102, 122. The trust agreement provides that the Claimant Trust will dissolve upon resolution of all

Disputed Claims and Equity Interests, as defined in the plan, but no later than five years from the effective date of the plan.[2] *Id.* at 105, 128, 140; Case No. 19-34054, Dkt. No. 1656-2 at 34. The five-year period expires on August 11, 2026. Case No. 19-34054, Dkt. No. 4298.

Second, the Court approved a settlement between Highland and Daugherty. *Id.*, Dkt. No. 3298. As part of the settlement, Daugherty retained a contingent, unliquidated claim (the "Reserved Claim") against the bankruptcy estate related to Highland's 2008 tax return which remains under audit by the IRS. *Id.*, Dkt. No. 3089-1. Depending on the result of the IRS audit, Daugherty asserts he could incur a tax liability for which Highland has agreed to indemnify him. Highland and Daugherty agreed, as part of the settlement, to stay any litigation concerning the Reserved Claim until the IRS completed its audit. *Id.*

Unfortunately, the IRS audit does not appear to be complete, and completion does not appear to be on the horizon before the August 11, 2026, dissolution of the Claimant Trust. For this reason, Highland filed its complaint seeking to disallow Daugherty's Reserved Claim, to estimate Daugherty's Reserved Claim under 11 U.S.C. § 502, and, to the extent the Reserved Claim is allowed, to subordinate the Reserved Claim pursuant to 11 U.S.C. § 510(b). *See* Dkt. No. 1.

[2] The Claimant Trust Agreement provides for an initial period of three years, but the Court may extend the period for up to an additional two years. The Court has previously extended the three-year period to the maximum five-year period.

Because the settlement agreement provided for a stay of any litigation regarding the Reserved Claim, Daugherty filed his *Motion to Dismiss* this adversary proceeding under Rule 12(b)(6). Dkt. No. 5.

With its objection to the *Motion to Dismiss*, Highland moved for relief (the "Cross Motion") from the Court's order approving the settlement agreement pursuant to Rule 9024 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Cross Motion asked the Court to strike from the settlement agreement the language preventing litigation of the Reserved Claim. Dkt. Nos. 9, 10.[3]

After considering the *Motion to Dismiss* and Highland's Cross Motion, the Court entered its order (the "Settlement Modification Order") denying the *Motion to Dismiss*, granting the Cross Motion, and striking the litigation stay language in the settlement agreement. Dkt. No. 23.

On September 19, 2025, Daugherty filed his *Notice of Appeal*. Dkt, No. 25. Pursuant to the Notice of Appeal, Daugherty appealed only the Court's Stay Modification Order "to the extent it granted relief under Rule 60(b)."[4] *Id.* at 2. Daugherty did not appeal the Court's denial of his *Motion to Dismiss*.

On September 26, 2025, Daugherty filed the Stay Motion seeking to stay this adversary proceeding pending Daugherty's appeal of the Settlement Modification Order.

---

[3] Because the objection responded to Daugherty's *Motion to Dismiss* and sought affirmative relief as part of Highland's Cross Motion, the pleading was docketed twice, once as the objection to the *Motion to Dismiss* and once as the Cross Motion.

[4] Bankruptcy Rule 9024 makes applicable to bankruptcy cases Rule 60 of the Federal Rules of Civil Procedure.

Discussion

Bankruptcy Rule 8007 provides the procedure for seeking a stay of a bankruptcy court's order or judgment pending its appeal. FED. R. BANKR. P. 8007. Typically, the appellant must move first in the bankruptcy court for a stay pending appeal. *Id.* 8007(a)(1)(A), (D). Granting a stay is left to the discretion of the court. *See Arnold v. Garlock*, 278 F.3d 426, 438 (5th Cir. 2001). And a stay pending appeal "is an extraordinary remedy." *Garcia Grain Trading Corp. v. Plascencia* (*In re Garcia Grain Trading Corp.*), No. 23-7002, 2025 WL 2730614, at *3 (Bankr. S.D. Tex. Sept. 24, 2025) (quoting *Smith v. Smith*, No. 6:21-CV-01244-ADA-DTG, 2022 WL 3566453, at *1 (W.D. Tex. July 1, 2022)).

In the Fifth Circuit, courts employ a four-part test to determine whether a stay pending appeal is merited. *See Arnold*, 278 F.3d at 438. The movant must show (1) a likelihood of success on the merits of the appeal; (2) irreparable harm to the movant if the stay is not granted; (3) lack of substantial harm to the non-moving parties if the stay is granted; and (4) benefit to the public interest if the stay is granted. *Id.* at 439–42; *Culwell v. Tex. Equip. Co.* (*In re Tex. Equip. Co.*), 283 B.R. 222, 226–27 (Bankr. N.D. Tex. 2002) (Jones, J., ret.).

> While each part must be met, the appellant need not always show a probability of success on the merits; instead, the movant need only present a substantial case on the merits when a serious legal question is involved and show that the balance of the equities weighs heavily in favor of granting the stay.

Arnold, 278 F.3d at 438–39 (citation modified). However, "if the balance of the equities (*i.e.*, consideration of the other three factors) is not heavily tilted in the movant's favor, the movant must then make a more substantial showing of likelihood

of success on the merits" for the court to grant a stay. *Ruiz v. Estelle*, 650 F.2d 555, 565–66 (5th Cir. 1981).

The movant bears the burden to prove by a preponderance of the evidence that the stay is warranted. *See Garcia Grain*, 2025 WL 2730614, at *3; *Collier v. Hodge*, No. 15-CV-2119, 2015 WL 5016485, at *1 (W.D. La. Aug. 21, 2015). Here, Daugherty bears the burden to prove by a preponderance of the evidence that he is entitled to a stay of these proceedings.

I. Likelihood of Success on the Merits

Daugherty argues the issue on appeal—modification of the settlement agreement pursuant to Rule 60(b)—is a serious legal question for which he must only show a substantial case on the merits. Daugherty cites several cases which hold that a court should not modify agreements reached between the parties after free, calculated, and deliberate choices were made. *See* Dkt. No. 33 at 7–8. Daugherty asserts that the Court should not have modified the settlement agreement by striking the negotiated Reserved Claim litigation stay.

Highland argues that Daugherty cannot meet his burden to prove a likelihood of success on the merits for two reasons: (1) the Settlement Modification Order is interlocutory, and Daugherty failed to acquire leave to appeal an interlocutory order; and (2) Daugherty cannot show that the Court abused its discretion in granting the Cross Motion pursuant to Rule 60(b).

The Court disagrees with Highland that the Settlement Modification Order is an interlocutory order. Daugherty expressly appeals only the relief granted under

Rule 60(b). Dkt. No. 25 at 2. The Court granted the Cross Motion modifying its order approving the settlement agreement. The order approving the settlement agreement was a final order. Any modification of it would likewise be a final, appealable order. This Court believes the Settlement Modification Order is a final, appealable order.[5]

The Court does agree with Highland, though, that Daugherty failed to meet his burden to prove a likelihood of success on the merits. "[T]he decision to grant or deny relief under Rule 60(b) lies within the sound discretion of the district court and will be reversed only for abuse of discretion." *Edwards v. City of Houston*, 78 F.3d 983, 995 (5th Cir. 1996). Though Daugherty asserts modifying settlement agreements is disfavored, he failed to demonstrate how the Court abused its discretion when it balanced the Claimant Trust's impending dissolution deadline with the settlement agreement's litigation stay provision and determined to strike the litigation stay provision. Co-existence of these conflicting provisions does not appear possible considering the IRS audit may last several more years.

Further, Daugherty failed to establish how the Court's order striking the litigation stay provision constitutes a serious legal question. *See Garcia Grain*, 2025 WL 2730614, at *5 (finding movant failed to establish a substantial likelihood of success on its appeal because movant failed to support with evidence the argument that the sanction dispute was a serious legal question). "Serious legal questions have far-reaching effects or are matters of public concern that go well beyond the interests

[5] As discussed further in analyzing irreparable harm, the Court does agree with Highland that the Settlement Modification Order did not dispose of the adversary proceeding, which creates a problem for Daugherty to meet his burden of showing irreparable harm if the stay is not granted.

of the parties." *Hernandez v. Erazo*, No. 23-50281, 2023 WL 3175471, at *5 (5th Cir. May 1, 2023) (citation modified). A serious legal question does not exist just because the issue on appeal concerns whether the lower court correctly applied established legal standards to the facts of the case. *See id.* Therefore, even if Daugherty's argument is that the Court failed to follow the established law on modifying settlement agreements, it does not mean the issue on appeal constitutes a serious legal question.

Finally, as explained more fully below, Daugherty fails to meet the other factors for a stay. Even if the Court were to apply a more lenient standard for demonstrating a likelihood of success on the merits, the balance of the equities does not weigh heavily in favor of granting a stay. *See Arnold*, 278 F.3d at 439.

For these reasons, the Court finds Daugherty has failed to establish a likelihood of success on the merits.

II. Irreparable Injury if the Stay is Not Granted

At the hearing, Daugherty's arguments about irreparable harm were two-fold. First, Daugherty alleges that litigating the claim will be costly and may not be necessary at all if the IRS does not issue any assessment under the 2008 audit. Second, Daugherty argues that he will not have any effective remedies if the litigation is not stayed because, if the Court disallows the Reserved Claim and the IRS issues an assessment for which Daugherty has additional tax liability, Daugherty will not have recourse for his payment of additional tax liability once Highland's plan is fully consummated.

Daugherty makes both these arguments without presenting any evidence to establish that either will cause irreparable harm to him if the Court does not grant the stay. Daugherty had the burden to prove by a preponderance of the evidence irreparable harm. He did not meet his burden.

Regardless of the lack of evidence of irreparable harm, the Court finds that Daugherty will not be irreparably harmed if the stay is not granted. First, Daugherty appealed only that portion of the Settlement Modification Order that disturbed the terms of the settlement agreement. Daugherty did not appeal the Court's denial of his *Motion to Dismiss*. If Daugherty is successful in his appeal, and the district court reverses the modification of the settlement agreement, it does not resolve or dismiss this adversary proceeding. Reversal will only result in the stay provision remaining in effect. Daugherty may either seek summary judgment on the same grounds he raised in his *Motion to Dismiss* or have a claim against Highland for breach of the settlement agreement. In either scenario, Daugherty will still be required to litigate in this adversary proceeding.

Second, under 11 U.S.C. § 502(c), Highland invokes the statutory process of estimating a contingent, unliquidated claim for allowance. Congress created this process for this exact situation—a contingent, unliquidated claim that needs to be liquidated to avoid undue delay in administering a bankruptcy case. The process affords Daugherty effective remedies.

This adversary proceeding is about whether the Reserved Claim should be allowed or disallowed. Daugherty is entitled to prove that the Reserved Claim should

be allowed, in what amount, and in what priority. He does not lose that right if a stay is not imposed. Further, Daugherty maintains his right to appeal any order or judgment finding the Reserved Claim is disallowed, allowed in a lesser amount than he believes is supported by evidence, or subordinated to other claims. Likewise, Highland set aside approximately $2.7 million to pay the Reserved Claim if it is allowed.[6] Thus, funds are available to pay Daugherty.

While Daugherty presumes the worst in his arguments, if this adversary proceeds to judgment in favor of Daugherty, then Daugherty may receive a windfall. Highland's counsel acknowledged that if the Court allows the Reserved Claim, Highland will be obligated to pay it even if the IRS does not issue an assessment causing Daugherty to pay additional tax liability.

For these reasons, Daugherty failed to show irreparable harm if the stay is not granted.

III. Lack of Substantial Harm to the Non-moving Parties if the Stay is Granted

Daugherty argues that neither Highland nor other parties will be harmed if the stay is granted. Daugherty asserts that a stay would prevent "costly and time-consuming litigation that could prove to be an empty gesture depending on the results of the IRS'[s] audit." Dkt. No. 33 at 10. Daugherty likewise argues the stay simply maintains the bargain for which Highland negotiated and agreed to as part of the settlement agreement.

[6] During the hearing, Highland's counsel represented to the Court that $2.7 million is set aside as a reserve for the Reserved Claim.

Again, Daugherty makes these arguments without having presented any evidence to establish the lack of substantial harm to the non-moving parties. Daugherty had the burden to prove by a preponderance of the evidence a lack of substantial harm to Highland and others. He did not meet his burden.

While no evidence was presented by either party, it stands to reason that if a stay is imposed, then determination of the Reserved Claim will be further delayed.[7] Counsel for Daugherty and Highland were unable to give the Court a reasonable estimate as to when the IRS would issue a "final determination" of the 2008 audit.[8] Waiting until the IRS makes a "final determination" delays the administration of this bankruptcy case. As stated, Highland reserved funds to cover the Reserved Claim. If the Reserved Claim is less than the reserved funds, additional funds can be paid to other creditors; however, this cannot be done until the Reserved Claim is resolved. Resolution of the Reserved Claim benefits creditors, including Daugherty, as they can be paid what they are owed under the plan. The opposite is true as well—delay in resolving the Reserved Claim harms creditors.

For these reasons, Daugherty failed to show a lack of substantial harm to non-moving parties if the stay is granted.

IV. Benefit to the Public Interest if a Stay is Granted

Daugherty argues the public has an interest in assuring that courts uphold settlement agreements. Daugherty further asserts that a stay in this case promotes

[7] Trial in this adversary proceeding is currently scheduled for April 8, 2026.

[8] The Court notes that Highland's counsel argued that the IRS already issued a "final determination." Yet, no evidence of said "final determination" was submitted to the Court.

judicial economy.

The Court disagrees with Daugherty's arguments. As explained above, the Bankruptcy Code specifically provides for estimation of contingent, unliquidated claims. *See* 11 U.S.C. § 502(c). The public policy behind the estimation process is to orderly administer bankruptcy cases and to prevent undue delay in their administration. *See id.; In re Perry*, 425 B.R. 323, 381 (Bankr. S.D. Tex. 2010). Thus, a stay pending appeal does not benefit the public interest in this case.

Further, the issue on appeal is a two-party dispute. The modification of the settlement agreement only affects Daugherty and Highland. Reversal of the Settlement Modification Order does not bestow upon the public any greater rights or benefits.

The Court, likewise, does not find Daugherty's judicial economy argument persuasive. Even if the district court reverses the Settlement Modification Order, as set forth above, the adversary proceeding will continue. Daugherty did not appeal the Court's denial of the *Motion to Dismiss*. While Daugherty implies a reversal somehow resolves this adversary proceeding, the Court does not agree. Procedurally, Daugherty would have to seek summary judgment on his claim that the settlement agreement bars the litigation until a "final determination" by the IRS. Thus, the Court will still proceed with the adversary proceeding.

For these reasons, Daugherty failed to show that public interests favor imposition of a stay.

Conclusion

Daugherty failed to meet his burden to prove he is entitled to a stay pending appeal of the Settlement Modification Order.

IT IS, THEREFORE, ORDERED that the Stay Motion is DENIED.

###End of Memorandum Opinion and Order###

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin Page 1 of 2

Date Rcvd: Jan 26, 2026 Form ID: pdf023 Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 28, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Jan 26 2026 21:25:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jan 26 2026 21:25:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Jan 26 2026 21:25:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jan 26 2026 21:25:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 28, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 26, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

STIPULATION AS TO THE AUTHENTICITY OF DOCUMENTS PRODUCED BY HUNTON ANDREWS & KURTH LLP

This stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. ("Highland" or the "Debtor") and defendant Patrick Hagaman Daugherty ("Daugherty" and together with Highland, the "Parties"), by and through their respective undersigned counsel, pursuant to which the Parties agree that the documents produced by Hunton Andrews & Kurth LLP ("HAK") in response to a subpoena served by Highland in the above-referenced adversary proceeding (the "Adversary Proceeding") are authentic for purposes of Fed. R. Evid. 901.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court"). Bankr. Docket No. 186.

WHEREAS, on May 2, 2025, Highland commenced the Adversary Proceeding against Daugherty.

WHEREAS, on December 19, 2025, Highland served a subpoena on HAK seeking certain documents.

WHEREAS, on January 22, 2026, the Court signed that certain *Agreed Order Concerning Subpoena to Third-Party Hunton Andrews & Kurth LLP*, and it was entered on the docket the

following day at Adv. Pro. Docket No. 77 (the "Subpoena").

WHEREAS, on January 23, 2026, in response to the Subpoena, HAK produced to counsel for Highland and Daugherty documents bates-stamped Hunton 000001-2578 (the "HAK Documents").

WHEREAS, the Parties have conferred and desire to enter into this Stipulation agreeing to the authenticity of the HAK Documents.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Bankruptcy Court, it shall be SO ORDERED:

1. The Parties agree that the HAK Documents are authentic evidence for purposes of Fed. R. Evid. 901.

2. Except for the foregoing, the Parties reserve all other rights to object to the admissibility of all or any of the HAK Documents.

3. If approved by the Court, this Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

4. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation.

Dated: February 9, 2026.

GRAY REED

/s/ Andrew K. York
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed February 9, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant/Counter-Plaintiff.	§	

ORDER APPROVING STIPULATION AS TO THE AUTHENTICITY OF DOCUMENTS PRODUCED BY HUNTON ANDREWS & KURTH LLP

Upon consideration of the *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* [Docket No. 84] (the "Stipulation")[2] by and between plaintiff

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

Highland Capital Management L.P. ("Highland" or the "Debtor"), on the one hand, and defendant Patrick Hagaman Daugherty ("Daugherty" and together with Highland, the "Parties"), on the other hand, it is **HEREBY ORDERED THAT:**

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. The HAK Documents are authentic evidence for purposes of Fed. R. Evid. 901.

3. Notwithstanding the foregoing, the Parties reserve all rights to object to the admissibility of all or any of the HAK Documents.

4. The Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Bankruptcy Court entered upon notice to the Parties.

5. The Bankruptcy Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of the Stipulation and any order related thereto.

###End of Order###

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

STIPULATION AS TO THE AUTHENTICITY OF DOCUMENTS PRODUCED BY HUNTON ANDREWS & KURTH LLP

This stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. ("Highland" or the "Debtor") and defendant Patrick Hagaman Daugherty ("Daugherty" and together with Highland, the "Parties"), by and through their respective undersigned counsel, pursuant to which the Parties agree that the documents produced by Hunton Andrews & Kurth LLP ("HAK") in response to a subpoena served by Highland in the above-referenced adversary proceeding (the "Adversary Proceeding") are authentic for purposes of Fed. R. Evid. 901.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court"). Bankr. Docket No. 186.

WHEREAS, on May 2, 2025, Highland commenced the Adversary Proceeding against Daugherty.

WHEREAS, on December 19, 2025, Highland served a subpoena on HAK seeking certain documents.

WHEREAS, on January 22, 2026, the Court signed that certain *Agreed Order Concerning Subpoena to Third-Party Hunton Andrews & Kurth LLP*, and it was entered on the docket the

following day at Adv. Pro. Docket No. 77 (the "Subpoena").

WHEREAS, on January 23, 2026, in response to the Subpoena, HAK produced to counsel for Highland and Daugherty documents bates-stamped Hunton 000001-2578 (the "HAK Documents").

WHEREAS, the Parties have conferred and desire to enter into this Stipulation agreeing to the authenticity of the HAK Documents.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Bankruptcy Court, it shall be SO ORDERED:

1. The Parties agree that the HAK Documents are authentic evidence for purposes of Fed. R. Evid. 901.

2. Except for the foregoing, the Parties reserve all other rights to object to the admissibility of all or any of the HAK Documents.

3. If approved by the Court, this Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

4. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation.

Dated: February 9, 2026.

GRAY REED

/s/ Andrew K. York
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed February 9, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

ORDER APPROVING STIPULATION AS TO THE AUTHENTICITY OF DOCUMENTS PRODUCED BY HUNTON ANDREWS & KURTH LLP

Upon consideration of the *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* [Docket No. 84] (the "Stipulation")[2] by and between plaintiff

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

Highland Capital Management L.P. ("Highland" or the "Debtor"), on the one hand, and defendant Patrick Hagaman Daugherty ("Daugherty" and together with Highland, the "Parties"), on the other hand, it is **HEREBY ORDERED THAT:**

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. The HAK Documents are authentic evidence for purposes of Fed. R. Evid. 901.

3. Notwithstanding the foregoing, the Parties reserve all rights to object to the admissibility of all or any of the HAK Documents.

4. The Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Bankruptcy Court entered upon notice to the Parties.

5. The Bankruptcy Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of the Stipulation and any order related thereto.

###End of Order###

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

STIPULATION AS TO THE AUTHENTICITY OF DOCUMENTS PRODUCED BY HUNTON ANDREWS & KURTH LLP

This stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. ("Highland" or the "Debtor") and defendant Patrick Hagaman Daugherty ("Daugherty" and together with Highland, the "Parties"), by and through their respective undersigned counsel, pursuant to which the Parties agree that the documents produced by Hunton Andrews & Kurth LLP ("HAK") in response to a subpoena served by Highland in the above-referenced adversary proceeding (the "Adversary Proceeding") are authentic for purposes of Fed. R. Evid. 901.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court"). Bankr. Docket No. 186.

WHEREAS, on May 2, 2025, Highland commenced the Adversary Proceeding against Daugherty.

WHEREAS, on December 19, 2025, Highland served a subpoena on HAK seeking certain documents.

WHEREAS, on January 22, 2026, the Court signed that certain *Agreed Order Concerning Subpoena to Third-Party Hunton Andrews & Kurth LLP*, and it was entered on the docket the

following day at Adv. Pro. Docket No. 77 (the "Subpoena").

WHEREAS, on January 23, 2026, in response to the Subpoena, HAK produced to counsel for Highland and Daugherty documents bates-stamped Hunton 000001-2578 (the "HAK Documents").

WHEREAS, the Parties have conferred and desire to enter into this Stipulation agreeing to the authenticity of the HAK Documents.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Bankruptcy Court, it shall be SO ORDERED:

1. The Parties agree that the HAK Documents are authentic evidence for purposes of Fed. R. Evid. 901.

2. Except for the foregoing, the Parties reserve all other rights to object to the admissibility of all or any of the HAK Documents.

3. If approved by the Court, this Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

4. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation.

Dated: February 9, 2026.

GRAY REED

/s/ Andrew K. York
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin Page 1 of 2

Date Rcvd: Feb 09, 2026 Form ID: pdf001 Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Feb 11, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Feb 09 2026 21:42:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Feb 09 2026 21:42:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Feb 09 2026 21:42:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Feb 09 2026 21:42:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 4

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Feb 11, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on February 9, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S NOTICE OF DEPOSITION OF T.J. LILES-TIMS

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure, made applicable herein by Rule 7030 of the Federal Rules of Bankruptcy Procedure, Highland Capital Management, L.P., the reorganized debtor and plaintiff/counter-defendant in the above-captioned action (the "Adversary Proceeding"), by and through its undersigned counsel, shall take the deposition of T.J. Liles-Tims in connection with the Adversary Proceeding on **March 23, 2026 at 9:00 a.m. Central Time**. The deposition will be taken under oath before a notary public or other person authorized by law to administer oaths and will be visually recorded by video or otherwise.

The deposition will be taken remotely via an online platform such that no one will need to be in the same location as anyone else in order to participate in the deposition. Parties who wish to participate in the deposition should contact John A. Morris, Pachulski Stang Ziehl & Jones LLP, at jmorris@pszjlaw.com for more information regarding participation in this deposition remotely.

[*Remainder of Page Intentionally Blank*]

Dated: February 25, 2026

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on February 25, 2026, a true and correct copy of the foregoing document was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed February 27, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

ORDER RESETTING TRIAL DATE

On February 26, 2026, the Court commenced a status conference in the above-captioned adversary proceeding. It is, therefore

ORDERED that the April 8, 2026, trial setting in this case is cancelled. A one-day trial is reset to commence in person on **April 17, 2026, at 9:00 a.m.** at 1100 Commerce Street, 14th Floor, Courtroom #1, Dallas, Texas 75242; and it is further

ORDERED that all other deadlines stated in the Court's *Order Approving Stipulated Scheduling Order* (Case No. 25-03055, Dkt. No. 37) are unchanged; and it is finally

ORDERED that the Court retains jurisdiction to interpret and enforce this Order.

End of Order

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed February 27, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

ORDER RESETTING TRIAL DATE

On February 26, 2026, the Court commenced a status conference in the above-captioned adversary proceeding. It is, therefore

ORDERED that the April 8, 2026, trial setting in this case is cancelled. A one-day trial is reset to commence in person on **April 17, 2026, at 9:00 a.m.** at 1100 Commerce Street, 14th Floor, Courtroom #1, Dallas, Texas 75242; and it is further

ORDERED that all other deadlines stated in the Court's *Order Approving Stipulated Scheduling Order* (Case No. 25-03055, Dkt. No. 37) are unchanged; and it is finally

ORDERED that the Court retains jurisdiction to interpret and enforce this Order.

End of Order

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Feb 27, 2026 Form ID: pdf001 Total Noticed: 7

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 01, 2026:

Recip ID		Recipient Name and Address
pla	+	Highland Capital Management, L.P., 100 Crescent Court, Suite 1850, Dallas, TX 75201-7817
dft	+	Patrick Hagaman Daugherty, 3621 Cornell Avenue, Suite 830, Dallas, TX 75205-2818

TOTAL: 2

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Feb 27 2026 21:41:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Feb 27 2026 21:41:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Feb 27 2026 21:41:00	United States Trustee - MD12, US Trustee's Office, 230 Homer Thornberry Judicial Bldg., 903 San Jacinto Blvd., Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Feb 27 2026 21:41:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Feb 27 2026 21:41:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 5

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
cd	*+	Highland Capital Management, L.P., 100 Crescent Court, Suite 1850, Dallas, TX 75201-7817
cc	*+	Patrick Hagaman Daugherty, 3621 Cornell Avenue, Suite 830, Dallas, TX 75205-2818

TOTAL: 0 Undeliverable, 3 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the

complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 01, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on February 27, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff/Counter-Defendant, v. PATRICK HAGAMAN DAUGHERTY, Defendant/Counter-Plaintiff.	§	Adv. Proc. No. 25-03055-bwo

CERTIFICATE OF SERVICE

I, Patrick M. Leathem, depose and say that I am employed by Kurtzman Carson Consultants, LLC dba Verita Global ("Verita"), the claims and noticing agent for the Reorganized Debtor in the bankruptcy case of *Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N.D. Tex).

On February 9, 2026, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP** [Docket No. 84]

Dated: March 10, 2026

/s/ *Patrick M. Leathem*
Patrick M. Leathem
Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

EXHIBIT A

Exhibit A
Adversary Service List
Served via Electronic Mail

Description	CreditorName	CreditorNoticeName	Email
Counsel to Patrick Daugherty	Gray Reed	Jason S. Brookner, Andrew K. York, Joshua D. Smeltzer, Drake M. Rayshell, William Drabble, J. Reid Burley	jbrookner@grayreed.com; dyork@grayreed.com; jsmeltzer@grayreed.com; drayshell@grayreed.com; wdrabble@grayreed.com; rburley@grayreed.com
Counsel for the Debtor	Hayward & Associates PLLC	Melissa S. Hayward, Zachery Z. Annable	MHayward@HaywardFirm.com; ZAnnable@HaywardFirm.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Richard M. Pachulski, Jeffrey N. Pomerantz, Ira D. Kharasch, James E. O'Neill, Robert J. Feinstein, John A. Morris, Gregory V. Demo	rpachulski@pszjlaw.com; jpomerantz@pszjlaw.com; ikharasch@pszjlaw.com; joneill@pszjlaw.com; rfeinstein@pszjlaw.com; jmorris@pszjlaw.com; gdemo@pszjlaw.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Robert Joel Feinstein, Hayley R. Winograd, Judith Elkin, Jordan A Kroop, Robert J Feinstein	rfeinstein@pszjlaw.com; hwinograd@pszjlaw.com; jelkin@pszjlaw.com

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adv. Proc. No. 25-03055-bwo

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

SECOND STIPULATED SCHEDULING ORDER

This second stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. ("Highland" or the "Debtor") and defendant Patrick Daugherty ("Daugherty," and together with Highland, the "Parties"), by and through their respective undersigned counsel, to establish certain deadlines pertaining to the litigation of claims asserted in Highland's *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1] (the "Complaint").

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Court"). Bankr. Docket No. 186.

WHEREAS, on April 1, 2020, Daugherty filed Proof of Claim No. 67 ("Claim 67"), which was superseded and replaced by Proof of Claim No. 77 ("Claim 77").

WHEREAS, on December 23, 2020, Daugherty filed Proof of Claim No. 205 (the "Claim" or "Claim 205"), which superseded and replaced Claim 77 in its entirety.

WHEREAS, on February 22, 2021, the Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943] (the "Confirmation Order") which confirmed the *Fifth Amended Plan of Reorganization*

of Highland Capital Management, L.P., as Modified [Bankr. Docket No. 1808] (the "Plan").

WHEREAS, on December 8, 2021, the Debtor filed *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the "Settlement Motion").

WHEREAS, on March 8, 2022, the Court granted the Settlement Motion [Bankr. Docket No. 3298] (the "Settlement Order"), disallowing Claim 67 and Claim 77 with prejudice and resolving all of Claim 205 other than Daugherty's Reserved Claim (as defined in the Parties' *Settlement Agreement* approved by the Settlement Order).

WHEREAS, on May 2, 2025, Highland commenced the Adversary Proceeding by filing the Complaint to disallow, estimate, or subordinate Daugherty's Reserved Claim.

WHEREAS, on October 1, 2025, the Court entered the *Order Approving Stipulation and Scheduling Order* [Docket No. 37], pursuant to which trial on this matter (the "Trial") was set for April 8, 2026.

WHEREAS, on February 27, 2026, the Court entered the *Order Resetting Trial Date* [Docket No. 88], pursuant to which the Trial was adjourned to April 17, 2026.

WHEREAS, in light of the adjournment of the Trial from April 8 to April 17, 2026, the Parties stipulated and agreed to adjourn certain related deadlines.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Court, it shall be SO ORDERED:

1. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **April 2, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **April 8, 2026**, or they shall be deemed waived.

2. A joint pretrial order in compliance with the Court's local rules shall be filed on or before **April 10, 2026**.

3. Any Party wishing to file a trial brief shall file and serve the same on or before **April 13, 2026**.

4. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

5. A one-day evidentiary hearing will be held in person before the Court on **April 17, 2026, beginning at 9:00 a.m. (Central Time)**.

6. If approved by the Court, this Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

7. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation.

Dated: March 17, 2026.

GRAY REED

/s/ Andrew K. York
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed March 19, 2026

United States Bankruptcy Judge

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adv. Proc. No. 25-03055-bwo

ORDER APPROVING
SECOND STIPULATED SCHEDULING ORDER

Upon consideration of the *Second Stipulated Scheduling Order* [Docket No. 93] (the "Stipulation")[2] made and entered into by and between plaintiff Highland Capital Management L.P.

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

("Highland" or the "Debtor") and defendant Patrick Daugherty ("Daugherty," and together with Highland, the "Parties"), it is **HEREBY ORDERED THAT:**

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **April 2, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **April 8, 2026**, or they shall be deemed waived.

3. A joint pretrial order in compliance with the Court's local rules shall be filed on or before **April 10, 2026**.

4. Any Party wishing to file a trial brief shall file and serve the same on or before **April 13, 2026**.

5. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

6. A one-day evidentiary hearing will be held in person before the Court on **April 17, 2026, beginning at 9:00 a.m. (Central Time)**.

7. The Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

8. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Stipulation and any order related thereto.

###End of Order###

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, v. PATRICK HAGAMAN DAUGHERTY, Defendant.	§	Adv. Proc. No. 25-03055-bwo

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

SECOND STIPULATED SCHEDULING ORDER

This second stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. ("Highland" or the "Debtor") and defendant Patrick Daugherty ("Daugherty," and together with Highland, the "Parties"), by and through their respective undersigned counsel, to establish certain deadlines pertaining to the litigation of claims asserted in Highland's *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1] (the "Complaint").

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Court"). Bankr. Docket No. 186.

WHEREAS, on April 1, 2020, Daugherty filed Proof of Claim No. 67 ("Claim 67"), which was superseded and replaced by Proof of Claim No. 77 ("Claim 77").

WHEREAS, on December 23, 2020, Daugherty filed Proof of Claim No. 205 (the "Claim" or "Claim 205"), which superseded and replaced Claim 77 in its entirety.

WHEREAS, on February 22, 2021, the Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943] (the "Confirmation Order") which confirmed the *Fifth Amended Plan of Reorganization*

of Highland Capital Management, L.P., as Modified [Bankr. Docket No. 1808] (the "Plan").

WHEREAS, on December 8, 2021, the Debtor filed *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the "Settlement Motion").

WHEREAS, on March 8, 2022, the Court granted the Settlement Motion [Bankr. Docket No. 3298] (the "Settlement Order"), disallowing Claim 67 and Claim 77 with prejudice and resolving all of Claim 205 other than Daugherty's Reserved Claim (as defined in the Parties' *Settlement Agreement* approved by the Settlement Order).

WHEREAS, on May 2, 2025, Highland commenced the Adversary Proceeding by filing the Complaint to disallow, estimate, or subordinate Daugherty's Reserved Claim.

WHEREAS, on October 1, 2025, the Court entered the *Order Approving Stipulation and Scheduling Order* [Docket No. 37], pursuant to which trial on this matter (the "Trial") was set for April 8, 2026.

WHEREAS, on February 27, 2026, the Court entered the *Order Resetting Trial Date* [Docket No. 88], pursuant to which the Trial was adjourned to April 17, 2026.

WHEREAS, in light of the adjournment of the Trial from April 8 to April 17, 2026, the Parties stipulated and agreed to adjourn certain related deadlines.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Court, it shall be SO ORDERED:

1. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **April 2, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **April 8, 2026**, or they shall be deemed waived.

2. A joint pretrial order in compliance with the Court's local rules shall be filed on or before **April 10, 2026**.

3. Any Party wishing to file a trial brief shall file and serve the same on or before **April 13, 2026**.

4. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

5. A one-day evidentiary hearing will be held in person before the Court on **April 17, 2026, beginning at 9:00 a.m. (Central Time)**.

6. If approved by the Court, this Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

7. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation.

Dated: March 17, 2026.

GRAY REED

/s/ Andrew K. York
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff/Counter-Defendant, v. PATRICK HAGAMAN DAUGHERTY, Defendant/Counter-Plaintiff.	§	Adv. Proc. No. 25-03055-bwo

CERTIFICATE OF SERVICE

I, Patrick M. Leathem, depose and say that I am employed by Kurtzman Carson Consultants, LLC dba Verita Global ("Verita"), the claims and noticing agent for the Reorganized Debtor in the bankruptcy case of *Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N.D. Tex).

On March 17, 2026, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **[Proposed] Second Stipulated Scheduling Order [**Docket No. 93]

Dated: March 20, 2026

/s/ *Patrick M. Leathem*
Patrick M. Leathem
Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

EXHIBIT A

Exhibit A
Adversary Service List
Served via Electronic Mail

Description	CreditorName	CreditorNoticeName	Email
Counsel to Patrick Daugherty	Gray Reed	Jason S. Brookner, Andrew K. York, Joshua D. Smeltzer, Drake M. Rayshell, William Drabble, J. Reid Burley	jbrookner@grayreed.com; dyork@grayreed.com; jsmeltzer@grayreed.com; drayshell@grayreed.com; wdrabble@grayreed.com; rburley@grayreed.com
Counsel for the Debtor	Hayward & Associates PLLC	Melissa S. Hayward, Zachery Z. Annable	MHayward@HaywardFirm.com; ZAnnable@HaywardFirm.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Richard M. Pachulski, Jeffrey N. Pomerantz, Ira D. Kharasch, James E. O'Neill, Robert J. Feinstein, John A. Morris, Gregory V. Demo	rpachulski@pszjlaw.com; jpomerantz@pszjlaw.com; ikharasch@pszjlaw.com; joneill@pszjlaw.com; rfeinstein@pszjlaw.com; jmorris@pszjlaw.com; gdemo@pszjlaw.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Robert Joel Feinstein, Hayley R. Winograd, Judith Elkin, Jordan A Kroop, Robert J Feinstein	rfeinstein@pszjlaw.com; hwinograd@pszjlaw.com; jelkin@pszjlaw.com

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed March 19, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

ORDER APPROVING
SECOND STIPULATED SCHEDULING ORDER

Upon consideration of the *Second Stipulated Scheduling Order* [Docket No. 93] (the "Stipulation")[2] made and entered into by and between plaintiff Highland Capital Management L.P.

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings set forth in the Stipulation.

("Highland" or the "Debtor") and defendant Patrick Daugherty ("Daugherty," and together with Highland, the "Parties"), it is **HEREBY ORDERED THAT:**

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.

2. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **April 2, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **April 8, 2026**, or they shall be deemed waived.

3. A joint pretrial order in compliance with the Court's local rules shall be filed on or before **April 10, 2026**.

4. Any Party wishing to file a trial brief shall file and serve the same on or before **April 13, 2026**.

5. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

6. A one-day evidentiary hearing will be held in person before the Court on **April 17, 2026, beginning at 9:00 a.m. (Central Time)**.

7. The Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

8. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Stipulation and any order related thereto.

###End of Order###

EXHIBIT A

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) *(admitted pro hac vice)*
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

SECOND STIPULATED SCHEDULING ORDER

This second stipulation (the "Stipulation") is made and entered into by and between plaintiff Highland Capital Management L.P. ("Highland" or the "Debtor") and defendant Patrick Daugherty ("Daugherty," and together with Highland, the "Parties"), by and through their respective undersigned counsel, to establish certain deadlines pertaining to the litigation of claims asserted in Highland's *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1] (the "Complaint").

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's bankruptcy case to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Court"). Bankr. Docket No. 186.

WHEREAS, on April 1, 2020, Daugherty filed Proof of Claim No. 67 ("Claim 67"), which was superseded and replaced by Proof of Claim No. 77 ("Claim 77").

WHEREAS, on December 23, 2020, Daugherty filed Proof of Claim No. 205 (the "Claim" or "Claim 205"), which superseded and replaced Claim 77 in its entirety.

WHEREAS, on February 22, 2021, the Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943] (the "Confirmation Order") which confirmed the *Fifth Amended Plan of Reorganization*

of Highland Capital Management, L.P., as Modified [Bankr. Docket No. 1808] (the "Plan").

WHEREAS, on December 8, 2021, the Debtor filed *Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the "Settlement Motion").

WHEREAS, on March 8, 2022, the Court granted the Settlement Motion [Bankr. Docket No. 3298] (the "Settlement Order"), disallowing Claim 67 and Claim 77 with prejudice and resolving all of Claim 205 other than Daugherty's Reserved Claim (as defined in the Parties' *Settlement Agreement* approved by the Settlement Order).

WHEREAS, on May 2, 2025, Highland commenced the Adversary Proceeding by filing the Complaint to disallow, estimate, or subordinate Daugherty's Reserved Claim.

WHEREAS, on October 1, 2025, the Court entered the *Order Approving Stipulation and Scheduling Order* [Docket No. 37], pursuant to which trial on this matter (the "Trial") was set for April 8, 2026.

WHEREAS, on February 27, 2026, the Court entered the *Order Resetting Trial Date* [Docket No. 88], pursuant to which the Trial was adjourned to April 17, 2026.

WHEREAS, in light of the adjournment of the Trial from April 8 to April 17, 2026, the Parties stipulated and agreed to adjourn certain related deadlines.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Court, it shall be SO ORDERED:

1. Except with respect to impeachment and rebuttal exhibits and witnesses, witness and exhibit lists will be filed on the docket and served on or before **April 2, 2026**, unless otherwise agreed in writing by the Parties. Objections to exhibits, other than for relevance, shall be filed on or before **April 8, 2026**, or they shall be deemed waived.

2. A joint pretrial order in compliance with the Court's local rules shall be filed on or before **April 10, 2026**.

3. Any Party wishing to file a trial brief shall file and serve the same on or before **April 13, 2026**.

4. All deadlines set forth above are effective as of **5:00 p.m. (Central Time)** on each applicable date.

5. A one-day evidentiary hearing will be held in person before the Court on **April 17, 2026, beginning at 9:00 a.m. (Central Time)**.

6. If approved by the Court, this Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

7. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation.

Dated: March 17, 2026.

GRAY REED

/s/ Andrew K. York
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332

Counsel for Patrick Daugherty

- and -

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

- and -

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for Highland Capital Management, L.P.

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Mar 19, 2026 Form ID: pdf001 Total Noticed: 6

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 21, 2026:

Recip ID		Recipient Name and Address
dft	+	Patrick Hagaman Daugherty, 3621 Cornell Avenue, Suite 830, Dallas, TX 75205-2818

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Mar 19 2026 22:16:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Mar 19 2026 22:16:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Mar 19 2026 22:16:00	United States Trustee - MD12, US Trustee's Office, 230 Homer Thornberry Judicial Bldg., 903 San Jacinto Blvd., Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Mar 19 2026 22:16:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Mar 19 2026 22:16:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 5

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
cc	*+	Patrick Hagaman Daugherty, 3621 Cornell Avenue, Suite 830, Dallas, TX 75205-2818

TOTAL: 0 Undeliverable, 2 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 21, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 19, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100

Counsel for Highland Capital Management, L.P.

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S WITNESS AND EXHIBIT LIST WITH RESPECT TO TRIAL TO BE HELD ON APRIL 17, 2026

Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above-captioned chapter 11 case (the "Bankruptcy Case") and plaintiff/counter-defendant in the above-captioned adversary proceeding (the "Adversary Proceeding"), by and through its undersigned counsel, submits the following witness and exhibit list with respect to (a) its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1], and (b) *Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Docket No. 1] and Original Counterclaim* [Docket No. 39], which the Court has set for trial at 9:00 a.m. (Central Time) on April 17, 2026 (the "Trial") in the Adversary Proceeding.

A. Witnesses:

1. James P. Seery, Jr.;
2. David Klos;
3. Patrick Daugherty;
4. Trevor Jason Liles-Tims;
5. Any witness identified by or called by any other party; and
6. Any witness necessary for rebuttal.

B. Exhibits:

Number	Exhibit	Offered	Admitted
1.	*Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Doc. No. 1] and Original Counterclaim* [Daugherty Deposition Exhibit H-1]		
2.	Email from John A. Morris dated May 5, 2022 [Daugherty Deposition Exhibit H-2]		
3.	Email from James Seery dated October 19, 2022 [Daugherty Deposition Exhibit H-3]		
4.	Email from John A. Morris dated May 24, 2024 [Daugherty Deposition Exhibit H-4]		
5.	Settlement Agreement dated November 22, 2021 [Daugherty Deposition Exhibit H-5]		
6.	*Patrick Daugherty's Amended Answers to Highland Capital Management, L.P.'s Requests for Admission* dated December 12, 2025 [Daugherty Deposition Exhibit H-6]		
7.	*Patrick Daugherty's Amended Answers to Highland Capital Management, L.P.'s Interrogatories* dated December 12, 2025 [Daugherty Deposition Exhibit H-7]		
8.	Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated February 24, 2004 [Daugherty Deposition Exhibit H-8]		
9.	First Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated April 15, 2006 [Daugherty Deposition Exhibit H-9]		
10.	Second Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated April 15, 2007 [Daugherty Deposition Exhibit H-10]		
11.	Amended Employment Agreement (Patrick Daugherty) dated December 31, 2004 [Daugherty Deposition Exhibit H-11]		

Number	Exhibit	Offered	Admitted
12.	Daugherty resignation letter dated September 28, 2011 [Daugherty Deposition Exhibit H-12]		
13.	Patrick Daugherty Comprehensive Compensation and Benefits Statement dated February 27, 2009 [Daugherty Deposition Exhibit H-13]		
14.	Schedule K-1 Form 1065 for Calendar year 2008 for Patrick Daugherty [Daugherty Deposition Exhibit H-14]		
15.	Highland Capital Management Form 4605-A for Period Ending December 31, 2008 [Daugherty Deposition Exhibit H-15]		
16.	Letter from Brian Collins to Patrick Daugherty dated February 3, 2018 [Daugherty Deposition Exhibit H-16]		
17.	Form 886-Z for Patrick Daugherty for Taxable Year Ended December 31, 2008 [Daugherty Deposition Exhibit H-17]		
18.	Form 870-PT (Patrick Daugherty) for Tax Years Ended December 31, 2008 [Daugherty Deposition Exhibit H-18]		
19.	Email From Brian Collins dated July 3, 2018 [Daugherty Deposition Exhibit H-19]		
20.	Email From Brian Collins dated December 9, 2019 [Daugherty Deposition Exhibit H-20]		
21.	May 31, 2024 letter from Hunton to IRS Appeals [HUNTON_000079]		
22.	February 28, 2025 letter from Hunton to IRS Appeals [HUNTON_001105]		
23.	Form 886-A (Explanation of Items) Exhibit FP-01 [HUNTON_001131]		
24.	Form 886-A (Explanation of Items) Exhibit FP-02 [HUNTON_001163]		
25.	Form 886-A (Explanation of Items) Exhibit FP-03 [HUNTON_001170]		

Number	Exhibit	Offered	Admitted
26.	May 2024 email from IRS to Hunton [HUNTON_001120]		
27.	June 2024 email from IRS to Hunton [HUNTON_000076]		
28.	TMP 60-day letter [HUNTON_001124]		
29.	Statutory Internal Revenue Code Guidance Rev. Ruling 2020-28		
30.	Statutory Internal Revenue Code Guidance IRC section 6662 – Imposition of penalties		
31.	Statutory Internal Revenue Code Guidance IRC section 6601 – Interest on underpayment		
32.	Statutory Internal Revenue Code Guidance IRC section 6621 – Determination of interest rate		
33.	Statutory Internal Revenue Code Guidance IRC section 6622 – Interest compounded daily		
34.	Statutory Internal Revenue Code Guidance IRC section 6651 – Failure to pay tax		
35.	2008 Form 1040 (US Individual Income Tax Return) Pat and Kimberly Daugherty [PDADV_010268]		
36.	2008 Form 1045 (Application for Tentative Refund) Pat and Kimberly Daugherty [PDADV_010262]		
37.	Various, including Draft 2008 HCMLP Schedule K-1 to Pat Daugherty [PDADV_010244]		
38.	Email chain from September 2011 between Daugherty and Dondero [PDADV_004224]		
39.	Powerpoint slides to partners [PDADV_000002]		
40.	Dondero to Daugherty email Oct 2011 with separation agreement attached [PDADV_018494]		

Number	Exhibit	Offered	Admitted
41.	Separation agreement attached to Dondero to Daugherty email – Oct 2011 [PDADV_018476]		
42.	Email from Daugherty to Collins February 13, 2018 [PDADV_004796]		
43.	July 14, 2014 Final Judgment		
44.	Copy of Jury Verdict (Feb 2014)		
45.	Daugherty's Original Answer, Counterclaim and Third-Party Petition (May 2012)		
46.	Order on motion to partially vacate final judgment		
47.	Draft TL QA email [DAUGHERTY ROGS01403110]		
48.	Letter Agreement re Partnership Interest dated December 31, 2004 [DAUGHERTY ROGS01404488]		
49.	Claimant Trust Agreement dated August 11, 2021		
50.	Email Highland: Daugherty Settlement (RCP Track Record) [DAUGHERTY ROGS00016698]		
51.	10/24/22 email from Romey (Fwd. Daugherty Settlement Agreement Follow-Up)		
52.	4/1/22 email from JAM (Fwd. HERA and ERA Transfer Documents (execution versions))		
53.	Gray Reed letter Jan 2024 [PDADV_008361]		
54.	Morris email to York Mar 2024 [PDADV_008363]		
55.	Emails between Daugherty and Seery Oct 2022 [PDADV_010229]		

Number	Exhibit	Offered	Admitted
56.	IRS notice April 2018 [PDADV_010999] - CONFIDENTIAL		
57.	Deposition Transcript T.J. Liles-Tims March 23, 2026		
58.	Weaver.com – T.J. Liles-Tims Profile		
59.	Expert Report of T.J. Liles-Tims dated February 13, 2026		
60.	Email from J. Dondero to P. Daugherty dated September 27, 2011 [PDADV_004224]		
61.	Protest letter July 2018 [HUNTON_001182]		
62.	HR spreadsheet [DAUGHERTY ROGS01403106]		
63.	Email from J. Seery dated October 24, 2022 [PDADV_018426]		
64.	Any document entered or filed in Highland Capital Management, L.P.'s chapter 11 Bankruptcy Case or any associated adversary proceeding, including any exhibits thereto		
65.	All exhibits necessary for impeachment and/or rebuttal purposes		
66.	All exhibits identified by or offered by any other party at the Trial		

Dated: April 2, 2026

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on April 2, 2026, a true and correct copy of the foregoing *Witness and Exhibit List* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (BWO)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S WITNESS AND EXHIBIT LIST

Defendant and Counter-Plaintiff Patrick Daugherty files this Witness and Exhibit List for Trial scheduled on April 17, 2026, at 9:00 a.m.

Witnesses

1. Patrick Daugherty
2. James Seery
3. T.J. Liles-Tims
4. Any witnesses called or designated by any other party;
5. Any witnesses necessary for impeachment, depending on the witnesses and evidence presented by other parties; and
6. Any witnesses necessary for rebuttal, depending on the witnesses and evidence presented by the parties.

Daugherty reserves the right to cross-examine any witness called by any other party.

Exhibits

Daugherty designates the following exhibits:

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-1	Complaint for (1) Disallowance of Claim No. 205 In Its Entirety, (2) Estimation of Claim No. 205 For Allowance Purposes, Or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty in Adversary Proceeding No. 25-03055-sgj, *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty* (Docket No. 1)	
PD-2	Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith (Main Case Docket No. 3088 in Case 19-34054-sgj)	
PD-3	Declaration of John A. Morris in Support of the Reorganized Debtor's Motion for Entry of An Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith (Main Case Docket No. 3089 in Case 19-34054-sgj)	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-4	Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith (Doc. No. 3298 in Case 19-34054-sgj)	
PD-5	Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 (Docket No. 10)	
PD-6	Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 (Main Case Docket No. 1281 in Case 19-34054-sgj)	
PD-7	Transcript Regarding Hearing Held 11/17/2020 Regarding Motion for Temporary Allowance of Claim (Main Case Docket No. 1426 in Case 19-34054-sgj)	
PD-8	Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)	
PD-9	Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified) and (II) Granting Related Relief	
PD-10	Claimant Trust Agreement (Main Case Docket No. 1811-2 in Case 19-34054-sgj)	
PD-11	(PDADV_004267)	
PD-12	(DAUGHERTY ROGS 001407735)	
PD-13	(DAUGHERTY ROGS 001407743)	
PD-14	(PDADV_010520)	
PD-15	(PDADV_000019)	
PD-16	(DAUGHERTY ROGS 0003740)	
PD-17	(HUNTON 001105)	
PD-18	(HUNTON 00004)	
PD-19	(HUNTON 001131)	
PD-20	(HUNTON 001163)	
PD-21	(HUNTON 001170)	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-21	(HUNTON 010244)	
PD-22	(HUNTON 010262)	
PD-23	(PDADV_010268)	
PD-24	(PDADV_010346)	
PD-25	(PDADV_011013)	
PD-26	2008 Daugherty K-1	
PD-27	(DAUGHERTY ROGS 0003729)	
PD-28	(DAUGHERTY ROGS 0003730)	
PD-29	(DAUGHERTY ROGS 0003734)	
PD-30	(PDADV_004224)	
PD-31	(PDADV_004687)	
PD-32	(PDADV_004856)	
PD-33	(DAUGHERTY ROGS 00016700)	
PD-34	(DAUGHERTY ROGS 00022527)	
PD-35	Email from J. Morris to M. Bobo dated May 24, 2024	
PD-36	November 17, 2020 Main Bankruptcy Hearing Transcript	
PD-37	June 25, 2025 Main Bankruptcy Hearing Transcript	
PD-38	September 4, 2025 Main Bankruptcy Hearing Transcript	
PD-39	March 1, 2022 Main Bankruptcy Hearing Transcript	
PD-40	(PDADV_004971)	
PD-41	(PDADV_011022)	
PD-42	(PDADV_018160)	
PD-43	(PDADV_018162)	
PD-44	(PDADV_018178)	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-45	(PDADV_018197)	
PD-46	(PDADV_004808)	
PD-47	(PDADV_018517)	
PD-48	(PDADV_018518)	
PD-49	(PDADV_018522)	
PD-50	(PDADV_018520)	
PD-51	(PDADV_018531)	
PD-52	(PDADV_018521)	
PD-53	(PDADV_018441)	
PD-54	Highland's Interrogatory Responses in this Adversary Proceeding	
PD-55	(PDADV_018431)	
PD-56	(PDADV_008926)	
PD-57	(PDADV_010052)	
PD-58	(Daugherty ROGs00003060)	
PD-59	(Daugherty ROGs00003294)	
PD-60	(Daugherty ROGs00003634)	
PD-61	(Daugherty ROGs00002069)	
PD-62	(Daugherty ROGs00001255)	
PD-63	(Daugherty ROGs00001109)	
PD-64	(Daugherty ROGs00002753)	
PD-65	(Daugherty ROGs00002009)	
PD-66	(Daugherty ROGs00002162)	
PD-67	(Daugherty ROGs00001282)	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-68	(Daugherty ROGs00003659)	
PD-69	(Daugherty ROGs00001302)	
PD-70	(Daugherty ROGs00001578)	
PD-71	(Daugherty ROGs00002893)	
PD-72	(Daugherty ROGs00001257)	
PD-73	(Daugherty ROGs00002041)	
PD-74	(Daugherty ROGs00003352)	
PD-75	(Daugherty ROGs00001054)	
PD-76	(Daugherty ROGs00000714)	
PD-77	(Daugherty ROGs00001830)	
PD-78	(PDADV006886-PDADV_006905, PDADV_018605-PDADV_018640)	
PD-79	2021.12.17 – Email w/ J. Seery & Sidley Counsel (JPS/Ell-000865)	
PD-80	2021.10.15 - Doc. 1 (Adv. Proc. 21-03076-sgj) – Highland's Complaint	
PD-81	2022.05.19 - Doc. 158 (Adv. Proc. 21-03076-sgj) - Amended Highland's Complaint and Objection to Claims	
PD-82	TJ Liles Expert Report	
PD-83	2021.07.13 - J. Seery Email (JPS_ELL-011979)	
PD-84	2021.10.01 – P. Daugherty Email (JPS_ELL-008163)	
PD-85	2021.10.01 – P. Daugherty Email (JPS_ELL-012313)	
PD-86	2021.07.13 – J. Seery Email (JPS_ELL-013203)	
PD-87	2022.02.16 - Doc. 3242 (Case 19-34054) Ellington's Objection to Settlement	
PD-88	2022.01.11 – Doc. 3265-1 (Case 19-34054) Ellington's Petition, App for TRO, TI and Permanent Injunction	
PD-89	2022.01.05 - Doc. 4266-20 (Case No. 19-34054) P. Daugherty Email to M. Kirschner	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-90	2023.09.13 - Doc 3910 (19-34054) - Highland's Motion to Show Cause	
PD-91	2023.11.10 - Doc 3969 (19-34054) - Highland's Reply ISO Motion to Show Cause	
PD-92	2023.12.12 - Doc 3991 (19-34054) - Order Dismissing Show Cause due to Consensual Resolution	
PD-93	2022.08.08 - UBS PowerPoint in Support of August 8, 2022 Hearing (Adv. Proc. No. 21-03020-sgj, Doc. 169)	
PD-94	Tolling Agreement Extending Claim Objection Deadline (Main Case Docket No. 4255-60 in Case 19-34054-sgj)	
PD-	Any document entered or filed in the Debtor's chapter 11 bankruptcy case, including any exhibits thereto	
PD-	Any exhibits identified by or offered by any other party at the hearing	
PD-	Any exhibits offered for impeachment and/or rebuttal purposes	

Daugherty reserves the right to supplement or amend this Witness and Exhibit List any time prior to the trial. This Witness and Exhibit List is not intended to limit Daugherty at the hearing or to imply that Daugherty may not seek introduction of evidence that is not on this list. Daugherty reserves the right to use any of the exhibits designated by any other party in this case

Dated: April 2, 2026.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of April 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (BWO)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S OBJECTIONS TO HIGHLAND CAPITAL MANAGEMENT, L.P., WITNESS AND EXHIBIT LIST WITH RESPECT TO TRIAL TO BE HELD ON APRIL 17, 2026

Patrick Daugherty ("Daugherty") submits the following objections to the witness and exhibit list submitted by Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above- captioned chapter 11 case (the "Bankruptcy Case") and plaintiff/counter-defendant in the above-captioned adversary proceeding (the "Adversary Proceeding"), with respect to (a) its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1], and (b) *Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Docket No. 1] and Original Counterclaim* [Docket No. 39], which the Court has set for trial at 9:00 a.m. (Central Time) on April 17, 2026 (the "Trial") in the Adversary Proceeding.

A. Objections to Witnesses:

1. James P. Seery, Jr.; [No Objection]
2. David Klos; [No Objection]
3. Patrick Daugherty; [No Objection]
4. Trevor Jason Liles-Tims; [No Objection]
5. Any witness identified by or called by any other party;[2] and
6. Any witness necessary for rebuttal.[3]

[2] Daugherty reserves the right to object to other unnamed witnesses, as appropriate and if necessary.

[3] Daugherty reserves the right to object to witnesses deemed purportedly "necessary for rebuttal".

B. Objections to Exhibits:

Number	Exhibit	Objection(s)
1.	*Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Doc. No. 1] and Original Counterclaim* [Daugherty Deposition Exhibit H-1]	
2.	Email from John A. Morris dated May 5, 2022 [Daugherty Deposition Exhibit H-2]	
3.	Email from James Seery dated October 19, 2022 [Daugherty Deposition Exhibit H-3]	
4.	Email from John A. Morris dated May 24, 2024 [Daugherty Deposition Exhibit H-4]	
5.	Settlement Agreement dated November 22, 2021 [Daugherty Deposition Exhibit H-5]	
6.	*Patrick Daugherty's Amended Answers to Highland Capital Management, L.P.'s Requests for Admission* dated December 12, 2025 [Daugherty Deposition Exhibit H-6]	
7.	*Patrick Daugherty's Amended Answers to Highland Capital Management, L.P.'s Interrogatories* dated December 12, 2025 [Daugherty Deposition Exhibit H-7]	
8.	Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated February 24, 2004 [Daugherty Deposition Exhibit H-8]	
9.	First Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated April 15, 2006 [Daugherty Deposition Exhibit H-9]	

Number	Exhibit	Objection(s)
10.	Second Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated April 15, 2007 [Daugherty Deposition Exhibit H-10]	
11.	Amended Employment Agreement (Patrick Daugherty) dated December 31, 2004 [Daugherty Deposition Exhibit H-11]	
12.	Daugherty resignation letter dated September 28, 2011 [Daugherty Deposition Exhibit H-12]	
13.	Patrick Daugherty Comprehensive Compensation and Benefits Statement dated February 27, 2009 [Daugherty Deposition Exhibit H-13]	
14.	Schedule K-1 Form 1065 for Calendar year 2008 for Patrick Daugherty [Daugherty Deposition Exhibit H-14]	
15.	Highland Capital Management Form 4605-A for Period Ending December 31, 2008 [Daugherty Deposition Exhibit H-15]	
16.	Letter from Brian Collins to Patrick Daugherty dated February 3, 2018 [Daugherty Deposition Exhibit H-16]	
17.	Form 886-Z for Patrick Daugherty for Taxable Year Ended December 31, 2008 [Daugherty Deposition Exhibit H-17]	
18.	Form 870-PT (Patrick Daugherty) for Tax Years Ended December 31, 2008 [Daugherty Deposition Exhibit H-18]	
19.	Email From Brian Collins dated July 3, 2018 [Daugherty Deposition Exhibit H-19]	
20.	Email From Brian Collins dated December 9, 2019 [Daugherty Deposition Exhibit H-20]	
21.	May 31, 2024 letter from Hunton to IRS Appeals [HUNTON_000079]	FRE 802 - Hearsay
22.	February 28, 2025 letter from Hunton to IRS Appeals [HUNTON_001105]	

Number	Exhibit	Objection(s)
23.	Form 886-A (Explanation of Items) Exhibit FP-01 [HUNTON_001131]	
24.	Form 886-A (Explanation of Items) Exhibit FP-02 [HUNTON_001163]	
25.	Form 886-A (Explanation of Items) Exhibit FP-03 [HUNTON_001170]	
26.	May 2024 email from IRS to Hunton [HUNTON_001120]	FRE 802 - Hearsay
27.	June 2024 email from IRS to Hunton [HUNTON_000076]	FRE 802 - Hearsay
28.	TMP 60-day letter [HUNTON_001124]	
29.	Statutory Internal Revenue Code Guidance Rev. Ruling 2020-28	FRE 802 - Hearsay
30.	Statutory Internal Revenue Code Guidance IRC section 6662 – Imposition of penalties	FRE 802 - Hearsay
31.	Statutory Internal Revenue Code Guidance IRC section 6601 – Interest on underpayment	FRE 802 - Hearsay
32.	Statutory Internal Revenue Code Guidance IRC section 6621 – Determination of interest rate	FRE 802 - Hearsay
33.	Statutory Internal Revenue Code Guidance IRC section 6622 – Interest compounded daily	FRE 802 - Hearsay
34.	Statutory Internal Revenue Code Guidance IRC section 6651 – Failure to pay tax	FRE 802 - Hearsay
35.	2008 Form 1040 (US Individual Income Tax Return) Pat and Kimberly Daugherty [PDADV_010268]	
36.	2008 Form 1045 (Application for Tentative Refund) Pat and Kimberly Daugherty [PDADV_010262]	
37.	Various, including Draft 2008 HCMLP Schedule K-1 to Pat Daugherty [PDADV_010244]	

Number	Exhibit	Objection(s)
38.	Email chain from September 2011 between Daugherty and Dondero [PDADV_004224]	
39.	Powerpoint slides to partners [PDADV_000002]	
40.	Dondero to Daugherty email Oct 2011 with separation agreement attached [PDADV_018494]	
41.	Separation agreement attached to Dondero to Daugherty email – Oct 2011 [PDADV_018476]	
42.	Email from Daugherty to Collins February 13, 2018 [PDADV_004796]	
43.	July 14, 2014 Final Judgment	FRE 401/402 – Relevance; FRE 403 Confusion of Issues
44.	Copy of Jury Verdict (Feb 2014)	FRE 401/402 – Relevance; FRE 403 Confusion of Issues
45.	Daugherty's Original Answer, Counterclaim and Third-Party Petition (May 2012)	FRE 401/402 – Relevance; FRE 403 Confusion of Issues
46.	Order on motion to partially vacate final judgment	FRE 401/402 - Relevance
47.	Draft TL QA email [DAUGHERTY ROGS01403110]	FRE 401/402 – Relevance
48.	Letter Agreement re Partnership Interest dated December 31, 2004 [DAUGHERTY ROGS01404488]	
49.	Claimant Trust Agreement dated August 11, 2021	
50.	Email Highland: Daugherty Settlement (RCP Track Record) [DAUGHERTY ROGS00016698]	

Number	Exhibit	Objection(s)
51.	10/24/22 email from Romey (Fwd. Daugherty Settlement Agreement Follow-Up)	
52.	4/1/22 email from JAM (Fwd. HERA and ERA Transfer Documents (execution versions))	
53.	Gray Reed letter Jan 2024 [PDADV_008361]	
54.	Morris email to York Mar 2024 [PDADV_008363]	
55.	Emails between Daugherty and Seery Oct 2022 [PDADV_010229]	
56.	IRS notice April 2018 [PDADV_010999] - CONFIDENTIAL	
57.	Deposition Transcript T.J. Liles-Tims March 23, 2026	Fed. R. Civ. P. 32
58.	Weaver.com – T.J. Liles-Tims Profile	
59.	Expert Report of T.J. Liles-Tims dated February 13, 2026	
60.	Email from J. Dondero to P. Daugherty dated September 27, 2011 [PDADV_004224]	
61.	Protest letter July 2018 [HUNTON_001182]	FRE 802 - Hearsay
62.	HR spreadsheet [DAUGHERTY ROGS01403106]	
63.	Email from J. Seery dated October 24, 2022 [PDADV_018426]	
64.	Any document entered or filed in Highland Capital Management, L.P.'s chapter 11 Bankruptcy Case or any associated adversary proceeding, including any exhibits thereto	Daugherty reserves objections until any such documents are offered

Number	Exhibit	Objection(s)
65.	All exhibits necessary for impeachment and/or rebuttal purposes	Daugherty reserves objections until any such documents are offered
66.	All exhibits identified by or offered by any other party at the Trial	

Daugherty reserves all objections to a witness's lack of personal knowledge regarding any of the exhibits that are attempted to be used with the witness.

Daugherty also reserves the right to amend or supplement his objections to Highland's witness and exhibit list.

Respectfully submitted this 8th day of April 2026.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 8th day of April 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055-bwo
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

JOINT PRETRIAL ORDER

[1] Highland's last four digits of its taxpayer identification number are (8357). The mailing address for Highland is 6333 E. Mockingbird Lane, Suite 147 #5045, Dallas, TX 75214.

This Joint Pretrial Order is jointly submitted to the Court for entry pursuant to Local Bankruptcy Rule 7016-1(a) and the Court's *Order Approving Second Stipulated Scheduling Order* [Docket No. 94][2] by Highland Capital Management, L.P. ("Plaintiff" or "Highland") and Patrick Hagaman Daugherty ("Daugherty," and together, the "Parties").

I. NATURE OF ACTION AND PROCEDURAL POSTURE

1. This action concerns Daugherty's contingent, unliquidated claim against Highland arising from the audit of Highland's 2008 tax return (the "Reserved Claim"), and Highland's claims against Daugherty, seeking to disallow and estimate his Reserved Claim.[3] This action also concerns Daugherty's Counterclaims (defined below).

2. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code (the "Bankruptcy Case" or the "Case"). Thereafter, Daugherty filed several proofs of claims in the Bankruptcy Case. Those claims culminated in Claim No. 205, which superseded and replaced all prior claims.

3. In November 2021, Daugherty and Highland entered into that certain *Settlement Agreement* (the "Settlement Agreement"), which resolved all aspects of Daugherty's claims against the Debtor's estate except for the Reserved Claim. On March 8, 2022, the Court entered an order approving the Settlement Agreement (the "Settlement Order") [Bankr. Docket No. 3299].[4] The Settlement Agreement provided that Highland would transfer to Daugherty its "interests in HERA and ERA," and that such transfer will include "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system . . . [and] be without representation or warranty of any type … and

[2] "Docket No. __" refers to the docket maintained in the above-captioned adversary proceeding (the "Adversary Proceeding").

[3] As set forth in Highland's contentions below, Highland is withdrawing its Third Cause of Action for subordination under Bankruptcy Code Section 510(c).

[4] "Bankr. Docket No. __" refers to the docket maintained in the Bankruptcy Case.

without any liability or material cost to HCMLP or its affiliates..." Highland Ex. 5 ¶8 (the "Books and Records Provision"). The Settlement Agreement further provided that Highland expressly "reserve[d] the right to assert any and all defenses" to the Reserved Claim. *Id*. ¶9.

4. On May 2, 2025, Highland commenced the Adversary Proceeding by filing its Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Docket No. 1] (the "Complaint"). In its Complaint, Highland asserted three claims: (a) disallowance of the Claim, (b) estimation of the Claim pursuant to 11 U.S.C. 502(c), and (c) subordination of the Claim under 11 U.S.C. § 510(b), (excluding the claim for subordination being withdrawn with prejudice, "Highland's Claims").

5. On June 5, 2025, Daugherty filed a Motion to Dismiss the Complaint [Docket No. 5]. Highland filed an Objection and a Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 [Docket No. 10]. At the hearing on Daugherty's Motion to Dismiss and Highland's Cross Motion, the Court denied the Motion to Dismiss and granted the Cross Motion. The Court's ruling struck a particular provision of the Settlement Agreement that Daugherty contends prohibited Highland from filing this Adversary Proceeding.[5]

6. On October 3, 2025, Daugherty filed his *Answer* and *Original Counterclaim* [Docket No. 39], asserting three causes of action against Highland: (a) breach of contract for breach of the Books and Records Provision; (b) specific performance through which Daugherty seeks an order requiring Highland to turn over all of HERA and ERA books and records in compliance with the Books and Records provision; and (c) attorneys' fees arising from Highland's allegedly bad faith

[5] Daugherty appealed to the district court from this Court's order granting the Cross Motion. That appeal is still pending. Daugherty does not intend to relitigate those issues at the upcoming April 17 hearing, but Daugherty is not waiving his existing appeal or any right to re-raise the issue in an appeal from the Court's ruling after the April 17 hearing.

conduct in commencing the Adversary Proceeding (collectively, the "Counterclaims"). On October 24, 2025, Highland filed its *Answer* to the Counterclaims (which included its affirmative defenses) [Docket No. 56].

7. A trial on Highland's Claims and Daugherty's Counterclaims is scheduled for April 17, 2026.

II. STATEMENT OF STIPULATED FACTS

A. The Parties Stipulate to the Following Facts:

8. From 1998-2011, Daugherty was employed by Highland.

9. Daugherty and Highland entered into that certain Amended Employment Agreement dated as of December 31, 2004 (the "Employment Agreement"). Highland Ex. 11.

10. On or about February 27, 2009, Highland issued to Daugherty a Comprehensive Compensation and Benefits Statement. Highland Ex. 13 (the "Comprehensive Statement").

11. In 2009, based on a draft Schedule K-1 that Highland provided to him, Daugherty filed his 2008 federal income tax return.

12. In 2009, Daugherty received refunds from the IRS of previously paid taxes in the amounts of $493,629 and $780,301 related to his 2008 Individual Income Tax Return (Form 1040) and his 2008 Application for Tentative Refund (Form 1045), respectively. These forms incorporated Highland's losses that had been allocated to him as provided for in the draft Schedule K-1.

13. On March 3, 2010, the IRS notified Highland that it was initiating an audit of Highland's 2008 federal income tax returns.

14. On September 28, 2011, Daugherty gave voluntarily notice of resignation from all positions at Highland. Highland Ex. 12. His last day as an employee at Highland was October 31, 2011.

15. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code (the "Bankruptcy Case").

16. On February 22, 2021, the Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Main Docket No. 1943] (the "Confirmation Order") with respect to the Plan.[6]

17. The Plan included a form of *Claimant Trust Agreement* (the "CTA"). [Bankr. Docket No. 1811, Exhibit R (preamble)].

18. The Plan created the CTA when the Plan went effective on August 11, 2021. [Main Docket No. 2700].

19. On November 22, 2021, Daugherty and Highland executed the Settlement Agreement. Highland Ex. 5.

20. On March 8, 2022, the Court entered the Settlement Order approving the Settlement Agreement.

21. On May 5, 2022, and October 19, 2022, Highland delivered certain documents and materials to Daugherty as reflected in Daugherty Exhibits 33 and 34, respectively.

22. The Reserved Claim remains disputed, contingent, and unliquidated.

III. CONTESTED ISSUES OF FACT

The statements and contentions in this section reflect the respective views of each Party and are not a joint statement or stipulation. No Party admits, agrees, or acquiesces to any factual or legal contentions, statements, or allegations of any other Party.

23. The Parties disagree on the following issues of fact:

- Whether the Compensation Statement is a binding and enforceable contract (Mixed

[6] The "Plan" refers to the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on the main docket at Docket No. 1808. The Confirmation Order was subsequently modified for reasons irrelevant to the Motion. *See* Main Docket No. 4378.

question of law and fact)?

- Whether Highland fulfilled its obligations, if any, under the Compensation Statement?
- If the Compensation Statement is an enforceable contract, and Highland has not fulfilled its obligations thereunder, whether Daugherty's Reserved Claim can be estimated in accordance with Section 502(c) of the Bankruptcy Code (Mixed question of law and fact)?
- If Daugherty's Reserved Claim can be estimated, how much should the Reserved Claim be estimated at for purposes of allowance.
- Whether the failure to estimate Daugherty's Reserved Claim before August 11, 2026, would unduly delay the administration of Highland's bankruptcy case?
- Whether Highland breached the Settlement Agreement's Books and Records Provision?
- Whether Highland acted in "bad faith" and is therefore liable for Daugherty's attorneys' fees?

IV. CONTESTED ISSUES OF LAW

24. The Parties disagree on the following issues of law:

- The Parties disagree over whether Daugherty's Reserved Claim should be disallowed (Mixed question of law and fact).
- The Parties disagree about whether Highland fulfilled its obligations under the Books and Records Provision (Mixed question of law and fact).
- The Parties disagree about whether Daugherty's breach of contract claim is barred by the statute of limitations.
- The parties disagree about who has the ultimate burden of proof on each cause of action and what those burdens are.

1. Estimated length of trial.

25. The Parties estimate that trial in this case will take one full day.

2. Additional matters that might aid in the disposition of the case.

26. None at this time.

V. PARTIES' CLAIMS AND DEFENSES

The following statements and contentions of the respective Parties in this Section reflect the respective views of each Party and are not a joint statement or stipulation. No Party admits,

agrees, or acquiesces to any factual or legal contentions, statements, or allegations of any other Party.

A. Summary of Highland's Claims and Defenses

1. Daugherty Has the Ultimate Burden of Proof

27. Under 11 U.S.C. § 502(a) a "claim ..., proof of which is filed under section 501 [of the Bankruptcy Code], is deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a). The ultimate burden of proof for a claim always lies with the claimant. *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep't of Rev.*, 530 U.S. 15 (2000)). Thus, Daugherty has the ultimate burden of proof with respect to the allowance and amount of his Reserved Claim.

28. Daugherty also has the ultimate burden of proof with respect to each of his Counterclaims.

2. Daugherty's Claim Should Be Disallowed

29. Daugherty's Claim should be disallowed for three independent reasons: (a) the Compensation Statement[7] is unenforceable as a contract because it is vague and indefinite and is missing material terms required to form a contract; (b) if the Compensation Statement creates an enforceable contract, Highland long-ago satisfied any obligations it may have had thereunder; and (c) under the plain and unambiguous terms of the Employment Agreement,[8] Daugherty surrendered any rights he may have had under the Compensation Statement when he voluntarily resigned from all positions at Highland in October 2011.

[7] Highland Ex. 13.

[8] Highland Ex. 11.

a. Material Terms of the Compensation Statement Are Either Vague or Indefinite or Are Missing Such that the No "Agreement" Was Reached and Claims Under the Compensation Statement are Unenforceable as a Matter of Law

30. The Compensation Statement does not constitute an offer by Highland and acceptance by Daugherty, an "at will" employee with an Employment Agreement, for anything. It is simply a summary of what Highland had or was going to pay Daugherty for services he had already performed during the prior year and a reiteration of his base salary for the next year. Every employee of Highland received a similar statement every year at the end of the performance review cycle each February. Material terms in the Compensation Statement Daugherty relies upon to claim an enforceable agreement are either vague or indefinite or are completely missing such that the so-called "agreement" is unenforceable as a matter of law. As relevant here, the alleged "agreement" is contained in three sentences that state only: "Refund is an ***estimated amount***. If actual refund deviates ***materially*** from estimate, ***other compensation*** will be ***fairly adjusted***. Refund is expected to be received in approximately 4 months."[9] That's it.

31. Under Texas law, a contract that fails to address all of its essential and material terms with a reasonable degree of certainty and definiteness is unenforceable as a matter of law. *See APS Cap. Corp. v. Mesa Air Grp., Inc.*, 580 F.3d 265, 272 (5th Cir. 2009) ("In order to be a legally enforceable contract, an agreement must be formed around the contours of sufficiently specific terms."). Material terms "are those that the parties would reasonably regard as vitally important elements of their bargain," and "a contract must define its essential terms with enough precision to enable the court to determine the obligations of the parties." *In re ACM-Tex., Inc.*, 430 B.R. 371, 408 (Bankr. W.D. Tex. 2010); *see also Wesdem, LLC v. Illinois Tool Works Inc.*, 2022 WL 18585978,

[9] Highland Ex. 13 (emphasis added).

at *4 (W.D. Tex. July 28, 2022), *aff'd sub nom.*, 70 F.4th 285 (5th Cir. 2023) ("Where the agreement is so indefinite that the Court must 'speculate' about its terms, the contract fails 'as a matter of law.'") (quoting *RealPage, Inc. v. EPS, Inc.*, 560 F. Supp. 2d 539, 547 (E.D. Tex. 2007) (granting summary judgment on a breach of contract claim because the licensing agreement failed to specify the product to be licensed and its price, affording the court no basis for understanding the parties' obligations); *Coppock v. Doug's Corner, Inc.*, No. 5:21-CV-43-RWS-JBB, 2023 WL 11947178, at *3 (E.D. Tex. May 17, 2023) (noting that "the agreement's terms must also be sufficiently definite to 'enable a court to understand the parties' obligations' and to give 'an appropriate remedy' if they are breached.") (quoting *Fischer v. CTMI, L.L.C.*, 479 S.W.3d 231, 237 (Tex. 2016)).

32. "As a general matter, Texas courts have consistently held that a contract may be held void for indefiniteness if it fails to specify 'the time of performance, the price to be paid, the work to be done, the service to be rendered, or the property to be transferred.'" *Liberto v. D.F. Stauffer Biscuit Co.*, 441 F.3d 318, 324 (5th Cir. 2006) (quoting *Engelman Irr. Dist. v. Shields Bros.*, 960 S.W.2d 343, 352 (Tex. App. 1997)). "The question of indefiniteness—whether an agreement reaches all essential terms of a given transaction—is one of law for the court." *APS*, 580 F.3d at 271 (citing **COC Svcs., Ltd. v. CompUSA, Inc.,** 150 S.W.3d 654, 664 (Tex.App.—Dallas 2004)).

33. Here, under Texas law, the Compensation Statement either contains vague or indefinite terms, or omits material terms, that render it unenforceable.

34. ***First***, the 2008 tax refund is explicitly stated to be an "estimated" amount. While unstated, the refund could only come from the IRS (as the taxing authority), not Highland. But the amount is not clear; it is merely estimated because a tax refund to an individual can only be determined after that individual files his/her tax return and all of the individual's particularized tax

attributes are taken into consideration.[10] While Highland could (and did quite accurately) estimate the amount of losses it would pass through to Daugherty as a limited partner, and could therefore estimate the potential tax refund solely on account of those losses, it could not set forth with definiteness the amount of the refund Daugherty would get from the IRS. Accordingly, the prospective amount of the refund was an estimate—and "estimates" are necessarily uncertain.

35. ***Second***, as used in the Compensation Statement, the word "materially" is vague and ambiguous. To create an enforceable obligation, the Court must determine, among other things, whether the actual refund Daugherty received from the IRS "deviate[s] "materially" from [the] estimate." Here, the estimate was $1,475,816[11], which as contemporaneous evidence shows, wasn't an estimate of the cash refund that Daugherty could expect to receive, but rather an estimate of the pre-tax equivalent of such a refund. In other words, the amount reflected on the Compensation Statement was a 35% "grossed-up" amount of his estimated cash refund of $959,280 to reflect what the refund would feel like to Daugherty on an "apples-to-apples" basis with other pre-tax compensation amounts. There is simply no agreed way to determine whether a refund amount received is materially consistent with the grossed-up amount listed on the Compensation Statement.

36. ***Third***, the phrase "other compensation" is also vague and ambiguous because it had many potential permutations at the time. The Compensation Statement proves the point as it identifies myriad forms of "Earnings and Awards" and "Highland Paid Benefits" that comprise the "Total Compensation Package" that Daugherty received for services he provided to Highland in 2008, including: (a) base salary, (b) tax refund, (c) loan forgiveness, (d) other awards (including a

[10] This would include things like other sources of income, unrelated capital gains and losses from investments, unrelated K-1's from other partnerships, spousal income, estimated tax payments the individual or their spouse made during the year, individual itemized deductions, and a litany of others. Each of these factors can impact an individual's refund or tax owed each year, and Highland did not have visibility into all the factors impacting Daugherty's "married-filing-jointly" return.

[11] Highland Ex. 13.

401(k) match and a "defined benefit"); and (e) deferred compensation.[12] In all, as reflected on the Compensation Statement, Daugherty was compensated 13 different ways in 2008 alone, and other years had even more methods of "compensation". To create a contract out of the Compensation Statement, the Court would have to pick without guidance which method of compensation should be adjusted.

37. ***Fourth***, the phrase "fairly adjusted" is another subjective term susceptible to differing meanings. Indeed, it is hard to imagine in 2011 that Daugherty and Highland would have reached an agreement on what was "fair." Had the parties intended to reach a binding "agreement," they surely would have done so. Again, to create Daugherty's alleged agreement, the Court will have to identify on its own what amount would have been deemed "fair" by the parties in February 2009.

38. ***Finally***, the Compensation Statement omits numerous material terms. For example, the Compensation Statement does not (a) mention what happens if an actual tax refund is received by Daugherty (as it was) but that refund is subject to potential recovery by the IRS (as it always is); (b) reference or even consider the possibility of an audit of Highland or Daugherty; (c) provide for what would happen in the event of an audit adjustment affecting Highland or Daugherty; (d) include any time frame or due date for any potential adjustment of "other compensation"; (e) state that Highland would "adjust other compensation" to account for any interest or penalties arising in connection with any unconsidered audit; (f) state that Highland would "make Daugherty whole" if any portion of the refund was clawed back after the unconsidered audit; (g) state that any obligation Highland purportedly had would continue indefinitely, even after Daugherty was no longer affiliated with Highland; or (h) contain the words "indemnify," "reimburse," "cover," "back-stop," or phrases

[12] Highland Ex. 13. The Compensation Statement also ascribes value to paid benefits as part of Daugherty's "total compensation package", including benefits like life insurance, disability insurance, executive long-term disability, daily catered lunches, "Blackberry" charges, and paid parking.

of similar import. Contemporaneous evidence actually contradicts Daugherty's theory of endless indemnification – that rather, tax refunds "are not guaranteed, as the IRS still has the authority to audit our claimed losses and resulting refunds due."[13] It is indisputable that Highland did not (1) even file its 2008 partnership return until nearly seven months *after* giving Daugherty the Compensation Statement, and (2) learn that the 2008 partnership return was selected for an IRS audit until *March 2010*.

39. In sum, the Compensation Statement is not an enforceable contract as a matter of law because essential terms to form an agreement are either vague, indefinite, or missing. For this reason alone, the Claim should be disallowed.

b. Highland Satisfied its Obligations Under the Compensation Statement

40. Even if the unsigned Compensation Statement is deemed an enforceable contract, Highland satisfied any obligations it may have had long ago because Daugherty received a tax refund from the IRS based on partnership losses passed to him and reflected in a draft Form K-1 for 2008 that Highland provided to him, which was further validated by a final Form K-1 for 2008 that was provided in September 2009. (the "2008 K-1").[14] Specifically, as reflected on his final 2008 K-1, Daugherty was allocated ordinary business losses by Highland in excess of $4 million, along with other losses that well-exceeded the partnership allocated income he received from Highland during 2005-2007. Thus, Daugherty received even more than what was referenced in the Compensation Statement which resulted in a greater refund for Daugherty than estimated. In other words, the allocation to Daugherty of over $4 million of actual losses from 2008 reflected in the final Form K-

[13] Highland Ex. 47.

[14] Daugherty Ex. 26 (draft 2008 K-1); Daugherty Ex. 24 (final 2008 K-1).

1 delivered in 2009 (when tax-effected at 35%) exceeded the originally estimated cash refund which formed the basis of the amount referenced in the Compensation Statement.

41. When Daugherty voluntarily terminated his employment with Highland in October 2011, he acknowledged and agreed that, pursuant to the express conditions of his Employment Agreement, Highland would "have no further liability or obligation to [Daugherty] under [the Employment Agreement] or in connection with his/her employment of termination."

42. Highland, therefore, satisfied its obligations (to the extent it had any) under the Compensation Statement and Employment Agreement in full. Accordingly, the Claim should be disallowed in its entirety.

c. Under the Terms of His Employment Agreement, Daugherty Forfeited Any Right He May Have Had to Compensation When He Resigned.

43. Even if the Compensation Statement was enforceable, Daugherty's Claim still fails because he forfeited any rights he had thereunder when he terminated his employment at Highland in October 2011.

44. Daugherty voluntarily resigned from Highland on September 28, 2011, and his employment terminated on October 31, 2011.[15] By his own contention, the 2008 Tax Refund that Daugherty received from Highland was part of his discretionary bonus under the Employment Agreement. But Daugherty surrendered any right he may have had to a bonus under the Compensation Statement (to the extent he had any) when he voluntarily terminated his employment at Highland. The Employment Agreement expressly states that Daugherty must be employed in order to be eligible for a bonus. Section 3.1 of the Employment Agreement provides:

> Salary and Bonus. The annual salary (the ***"Base Salary")*** payable to the Executive during the term of this Agreement shall be an amount

[15] Daugherty Ex. 15.

> determined by the Company (in its sole discretion) and communicated in writing to the Executive, and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon the Executive's performance and shall be determined by the Company in its sole discretion. In addition, the Company ***may*** from time to time award bonuses to the Executive based on such criteria as the Company ***may establish in its discretion***. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. ***The Executive must be employed on the payment date(s) in order to be eligible for the bonus.*** The payment of salary and bonuses shall be subject to all federal, state and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of the Executive's compensation does not constitute a guarantee of employment for any specific period of time.[16]

45. Daugherty terminated his employment at Highland on October 31, 2011, and therefore, was no longer eligible for any bonus under the Employment Agreement after that date. Daugherty has admitted this in writing 15 years ago -- literally the day before he resigned in 2011. Highland Ex. 38 ("I would have to be employed at Highland in order to get any payment of bonus (as has always been the case).").

46. Further, Section 4.5 of the Employment Agreement expressly addresses Highland's liability to Daugherty in the event Daugherty voluntarily terminates his employment and does not take up work with a "competing business":

> In the event that [Daugherty] terminates his/her Continuous Status as an Executive hereunder and within one (1) year thereafter [Daugherty] is not employed by a Competing Business, [Highland] shall have no further liability or obligation to [Daugherty] under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any accrued but unused vacation time, (iii) any amounts or rights to which [Daugherty] is entitled under any other written agreement with [Highland], (iv) any unreimbursed expenses properly incurred prior to the date of termination, and (v) severance pay equal to the product of (a) two (2) weeks Base Salary … multiplied by (b) the number of

[16] Highland Ex. 11 §3.1(a)(emphasis added).

> [years of service]… [total severance not to exceed six weeks of Base Salary]... [Daugherty] acknowledges that [Highland's] obligation to pay severance, if any, will arise only … if [Daugherty] signs and returns a duly executed separation agreement and release substantially in the form attached hereto as Exhibit A….***In the event that [Daugherty] declines to sign the separation agreement and release, he/she shall not be entitled to any severance, and [Highland] will have no further liability or obligation to Daugherty under this Agreement or in connection with his/her employment or termination***. [17]

47. Since Daugherty did not sign the separation and release form and deliver it to Highland and elected to counter-sue Highland under the Employment Agreement instead (and lost against Highland),[18] he forfeited any right he may have had under the Compensation Statement for any additional consideration, including his claim for unlimited indemnity or adjustment of other pre-termination compensation.

48. Finally, one other document proves that the Parties never believed the Compensation Statement constituted an agreement that would survive Daugherty's termination from Highland: a form of Separation Agreement Daugherty refused to sign following his resignation (the "Draft Separation Agreement").[19] The Draft Separation Agreement contains, among other things, the very promise by Highland pay taxes, interest, and penalties arising from an audit of Highland's tax returns (the "Rejected Indemnity") that Daugherty now claims is implicitly included in the Compensation Statement. The evidence will show that in October 2011, when Daugherty was presented with the Draft Separation Agreement, the IRS was *only* auditing Highland's 2008 return. There would have been no reason to include the Rejected Indemnity in the Draft Separation Agreement if the Parties

[17] Highland Ex. 11 at §4.5 (emphasis added).

[18] *See* Highland Ex. 44.

[19] Daugherty Ex. 44 §3(b)(ii).

believed it was already included in the Compensation Statement and would survive Daugherty's termination.

3. Daugherty's Claim Must Be Estimated Under Section 502(c)

49. Even if Daugherty's Claim is allowed, it must be estimated under Section 502(c) of the Bankruptcy Code ("Section 502(c)"). Under Section 502(c), the Bankruptcy Court is required to estimate contingent and unliquidated claims for allowance purposes in the circumstances present here.[20] The statute provides: "[t]here shall be estimated for purposes of allowance ... (1) any contingent or unliquidated claim, the fixing or liquidation of which ... would unduly delay the administration of the case ...." 11 U.S.C. § 502(c).

50. "The public policy underlying claims estimation under the Code is to facilitate the timely administration of the case by making an expeditious assessment of the value of certain claims which would otherwise unduly delay administration." *In re Perry*, 425 B.R. 323, 381 (Bankr. S.D. Tex. 2010). Thus, where, as here, both prerequisites are met, the bankruptcy court does not merely have discretion to estimate – it has an affirmative mandatory duty to do so. The method by which the bankruptcy court estimates a claim under Section 502(c) is within the court's broad discretion. *See Matter of Brints Cotton Mktg., Inc.*, 737 F.2d 1338, 1341 (5th Cir. 1984) ("A bankruptcy court's estimation of the value of an unliquidated claim, the liquidation of which would unduly delay the proceedings, may be disturbed on appellate review only in the event of an abuse of discretion.").

[20] Daugherty's expert opines that Daugherty's Claim cannot possibly be estimated until all disputes concerning the 2008 Audit are finally resolved, if then. Aside from the fact that the expert is wrong (see below), Daugherty cannot reconcile his expert's opinion with Congress' explicit mandate reflected in the plain text of in Section 502(c)—and that's not surprising since Daugherty's expert admits he has no bankruptcy expertise and is unfamiliar with Section 502(c). Indeed, if Daugherty's expert is right, and Daugherty's Claim cannot possibly be estimated, then the Claim should be disallowed as too speculative. The one result that is ***not*** permitted under the circumstances is that Daugherty gets to hold up implementation of the express agreement between Highland and all of its stakeholders (as reflected in the court-approved Plan and Claimant Trust Agreement) concerning the deadline for the resolution of claims and the commencement of dissolution (*i.e.*, August 11, 2026).

51. Daugherty's Claim, which is both contingent and unliquidated, is precisely the type of claim that must be estimated under Section 502(c). As set forth above, the Plan was confirmed in February of 2021 and has been effective since August of 2021. Under the Sunset Provisions[21] in the Plan, CTA, Confirmation Order, and related extension orders, Highland must resolve all disputed claims, and the Highland Claimant Trust must commence the Dissolution Process, by August 11, 2026. Mr. Daugherty's Claim is the last unresolved claim against Highland's estate. Although the parties dispute whether the IRS made a "final determination" with respect to the completed 2008 IRS tax audit that concluded in 2018,[22] they agree that any final resolution of the appeal of the audit results will not be complete by the court-ordered and Plan-mandated August 11, 2026 deadline to resolve the estate's outstanding claims and commence Highland's dissolution process. Thus, if Daugherty' Claim is not estimated, Highland will be in violation of the Confirmation Order and the Extension Order and the administration of the bankruptcy case will be unduly delayed. Accordingly, this Court is required to exercise its congressionally mandated duty to estimate Daugherty's Claim under Section 502(c).

52. In applying Section 502(c), the Court has ample information to apply a reasonable methodology to estimate Daugherty's Claim, assuming any liability for Highland. The only figure subject to estimation is the amount of adjustment to Highland's 2008 partnership return (the "HCMLP Income Adjustment"). Once the sole, unknown variable—the HCMLP Income Adjustment—is estimated, the amount of Daugherty's Claim may be determined by a simple

[21] *See generally* Highland's *Motion for An Order Further Extending Duration of Trusts*, Docket 4213 (the "Extension Motion"). This Court granted the Extension Motion and extended the life of the Claimant Trust only until August 11, 2026. Docket No. 4298 (the "Extension Order").

[22] The dispute over whether "the IRS [made] a final determination with respect to the IRS Audit Dispute" (Highland Ex. 5 ¶9) was addressed by this Court when it granted Highland's motion under Rule 60 to strike the Stay Provision from the Settlement Agreement (Adv. Pro. Docket No. 23), and is irrelevant to the current dispute before the Court. *See also Memorandum Opinion and Order*, Adv. Pro. Docket No. 80) (denying Daugherty motion to stay adversary proceeding pending appeal of order granting Highland's Rule 60 motion).

arithmetic formula: [HCMLP Income Adjustment] x [Daugherty's 0.7403 percentage interest in the partnership as of the December 31, 2008]; x [Daugherty's 35% maximum personal federal income tax rate as of December 31, 2008]. Thus, the Court can reasonably estimate Daugherty's Claim by plugging in one of four different numbers for the HCMLP Income Adjustment, which in all but one case requires no subjectivity whatsoever: (i) the IRS's original determination at the conclusion of the 2018 audit;[23] (ii) the IRS's 2024 offer to the tax matters partner (Dondero) of a discounted settlement; (iii) Dondero's 2025 offer to the IRS of an even further discounted settlement; or (iv) some estimate of a hypothetical discounted settlement based on the several existing known data points. The results are set forth in the demonstrative exhibit attached as Highland D-1.

53. While Highland believes there is no basis to hold it liable for any penalties or interest that Daugherty could be required to pay on account of an "underpayment" amount resulting from HCMLP Income Adjustment, as further set forth below, Highland has nevertheless calculated these objective and statutorily determined amounts in the same demonstrative for the sake of completeness and to provide the Court with all the tools it needs to fulfill its mandate. Even if the Compensation Statement is deemed to be an enforceable contract (which Highland disputes), such Compensation Statement makes no reference to penalties or interest whatsoever, nor does it provide for any indemnification or similar obligations with respect thereto (and in fact, contemporaneous evidence contradicts such a notion). That said, even if the Court determines that the claim ought to be allowed and should include some estimate for penalties and/or interest, Daugherty has benefited from having actually received the original $1.3 million refund amount from the IRS in 2009, and Daugherty has

[23] *See* Highland Ex. 15 – Form 4605-A. And note further that while the Form 4605-A contains a $166 million adjustment to the Highland 2008 portfolio income, it also affirms $546 million of 2008 ordinary losses that Highland had reflected on its original tax return. The income adjustment, and the subsequent dispute over the adjustment, only concerns a fraction – roughly 30% - of the overall losses Highland reported, as further validated by all settlement negotiations that have since followed.

an affirmative duty to mitigate any damages arising from penalties and/or interest, which could have been accomplished through investment of the tax refund he received. Even assuming extremely conservative rates of return on such a hypothetical investment, such returns would dwarf the penalties and interest the IRS would charge in any of the scenarios described in the demonstrative.[24]

54. The Court may also use another methodology it deems appropriate under the circumstances. But there can be no dispute that this is the exact type of situation that mandates claim estimation. Accordingly, if Daugherty's Claim is allowed, it shall be estimated under Section 502(c).

4. Highland Withdraws Its Third Cause Of Action--Subordination Under Section 510(b)—With Prejudice

55. Upon reflection, Highland withdraws with prejudice its Third Cause of Action for the subordination of Daugherty's Claim pursuant Bankruptcy Code section 510(b) because (a) Daugherty's Claim has long been subject to a reserve in an amount that greatly exceeds any plausible estimate of value, (b) withdrawal will simplify the trial by eliminating the Parties' burden of litigating whether (i) Daugherty's Claim should be subordinated, and (ii) if so, whether it should be subordinated to Class 10 and Class 11, (c) withdrawal will reduce this Court's burden to decide such issues, (d) withdrawal will narrow the scope of any potential appeal, and (e) Daugherty cannot be prejudiced because, if the Court determines that the Compensation Statement is an enforceable contract, and estimates Daugherty's Claim, the Claim will remain in Class 8 where it has always been and will be paid in full.[25]

[24] Mr. Daugherty has had the use of the 2008 Refund *for more than 16 years* during a historically bullish period for investors, with the S&P 500, for example, returning approximately 10x for investors from the start of 2009 to early 2026. For underpayment with a filed return, the IRS charges a one-time 20% penalty on the underpaid amount, and the effective interest rate on the underpayment since Daugherty received the refund would be approximately 4.6% per year by statute.

[25] If Daugherty's Claim is subordinated to Class 10, it will receive a small fraction of its allowed amount that will be potentially paid by the Highland Claimant Trust over an indeterminate period of time. If Daugherty's Claim is subordinated to Class 11, it will be valueless since the holders of Class 10 interests will never be paid in full.

56. Based on the foregoing, Highland hereby gives notice that it withdraws with prejudice its Third Cause of Action for subordination.

5. Daugherty's Counterclaim for Books and Records is meritless

57. This counterclaim is a narrow issue that is definitively covered by the terms of the Settlement Agreement and Highland's satisfaction of its obligations. Under the Settlement Agreement, Highland agreed to "transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type. . . Such transfer will be without any liability or material cost to HCMLP or its affiliates . . ."[26]

58. While Daugherty negotiated Section 8 directly with Highland's Chief Executive Officer, James P. Seery, Jr., Daugherty has no recollection about the negotiations of this provision or why the unique phrase "books and records (spreadsheet)" was included. Seery does—and he will testify that phrase and accompanying text (a) refers to a specific set of documents and (b) was used to circumscribe the documents Highland would turn over to Daugherty. Yet here we are.

59. Despite having no recollection of the meaning and intent of Section 8, Daugherty has asserted a counterclaim contending that Highland breached its obligation under Section 8 by failing to provide all of HERA and ERA's "books and records" and suggests Highland will be liable for consequential damages if HERA does not prevail in unrelated litigation.[27] Daugherty has also asserted counterclaims for specific performance and attorney's fees. Daugherty's counterclaims are meritless.

[26] Highland Ex. 5 ¶8 ("Section 8")

[27] Highland Ex. 1 ¶¶12-13 (Counterclaim).

60. There is no dispute that HERA and ERA (a) were shell entities established for the sole purpose of holding limited, passive assets for the benefit of certain then-Highland employees as a compensation vehicle, and (b) never had any of its own employees or operations of any kind. With that in mind, the evidence will show that on May 5, 2022, just after this Court approved the Settlement Agreement, Highland delivered to Daugherty "HERA and ERA books and records" available on Highland's system, together with tax documents, and noted that, subject to a final review, it had fulfilled its obligations under Section 8.[28]

61. On October 19, 2022, in an effort to placate Mr. Daugherty, Highland provided additional information concerning HERA and ERA (including back-up for virtually all of HERA's historically recorded expenses reflected in the records previously delivered to Daugherty) and re-iterated its position that it had "satisfied all of its obligations under the settlement agreement, and our involvement in HERA/ERA (your entities) will be complete."[29]

62. Daugherty did not raise the issue of "books and records" again until January 30, 2024, when Gray Reed requested[30] that Highland supplement its delivery of documents seeking Word, Excel, and Powerpoint documents, email correspondence, legal communications, among others, all with corresponding metadata, and requesting that Highland employ an outside vendor to collect and produce the documents.

63. With Gray Reed having not yet received a substantive response from Highland, on February 29, 2024, HERA filed its original complaint against 24 individuals, law firms, or other entities.

[28] Daugherty Ex. 33.

[29] Daugherty Ex. 34.

[30] Highland Ex. 53

64. Just days later, on March 5, 2024, Highland's counsel responded to the January 30, 2024 letter, and stood by Highland's prior statements that it had fulfilled its obligations under the Settlement Agreement[31]

65. Then, two months later, on May 10, 2024 when a new Daugherty lawyer suddenly demanded a broad swath of documents concerning HERA and ERA that had been demanded by Gray Reed on January 30, 2024, while misquoting the settlement agreement along the way and again requesting that Highland's use of an outside vendor. Highland responded within hours, rejected Daugherty's newest demands, reiterated yet again that it believed that it had fulfilled its obligations under Section 8, and expressly invited Daugherty to seek judicial relief to finally bring the matter to a close. [32]

66. Daugherty did no such thing because—as he has proven time and time again—Daugherty has no interest in resolving anything. Thus, rather than sue Highland and enforce his purported rights under the Settlement Agreement and bring finality to the issue, Daugherty will admit that he voluntarily chose to commence an action in federal district court on behalf of HERA and ERA (the "HERA Action") knowing that Highland had refused to produce any further documents concerning those entities.[33] Daugherty will also admit that even in the face of a motion to dismiss the HERA Action, Daugherty chose not to seek leave to seek additional documents from Highland, a entity known to be in the latter stages of liquidating. It was only in October 2025, after being forced to litigate his unrelated tax claim and three and a half years after Highland informed him that it believed it had fulfilled its obligations under Section 8, that Daugherty finally sought to enforce his purported rights.

[31] Highland Ex. 54

[32] Daugherty Ex. 35.

[33] Highland Ex. 1 ¶¶12-13 (Counterclaim).

67. The evidence will show that Daugherty's breach of contract claim is barred by the three-year statute of limitations and that Highland otherwise did not breach Section 8.[34]

B. Summary of Daugherty's Claims and Defenses

68. Daugherty understood the local rule to require a brief summary (identification) of the claims and defenses that are at issue in the adversary proceeding hearing, and that either party could file a separate trial brief addressing issues that they belief were pertinent to the upcoming hearing. Daugherty intends to file a separate trial brief on April 13, pursuant to the Second Stipulated Scheduling Order [Docket No. 94].

69. Daugherty asserts three causes of action against Highland. First, Daugherty has a breach of contract claim related to his contention that Highland violated the Settlement Agreement's Books and Records Provision. Second, Daugherty has a cause of action for specific performance through which Daugherty seeks an order requiring Highland to fully comply with the Books and Records Provision. Third, Daugherty seeks his attorneys' fees related to his position that Highland breached the Settlement Agreement in bad faith.

70. Daugherty's defense against Highland's claim is equitable estoppel. Daugherty also continues to maintain that the Settlement Agreement's stay provision (which is quoted above) precludes Highland from filing this adversary proceeding because there has not been a final determination with respect to the IRS Audit Dispute. Daugherty has appealed that issue to the district court in connection with this Court's grant of Highland's Cross Motion under Rule 9024, which

[34] Daugherty's second cause of action is unnecessary. If the Court finds that there is a category of documents included within Section 8 that Highland has not previously produced, Highland will produce such documents within 15 days of the entry of the Court's order. And if Daugherty actually burdens the Court by pursuing his absurd claim for attorneys' fees based on Highland's supposed "bad faith" commencement of this adversary proceeding—a decision validated by this Court's Rule 60 decision—Highland will address it at that time.

struck the stay provision. Although Daugherty is not going to relitigate that issue at the April 17 hearing, he is not waiving his pending appeal or any arguments relating to this issue.

###End of Order###

GRAY REED

By: */s/ Drake M. Rayshell*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

-and-

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

HIGHLAND D-1

	Case:	I		II		III		IV		V	
		MIN ESTIMATION AMT.		TMP ACCEPTED AMT.		MID-POINT AMT.		IRS OFFER AMT.		MAX 2018 AUDIT AMT.	
	Reference/formula	Complete reversal of 2018 audit		Tax Matters Partner offer to IRS [6]		Hypothetical complete 50/50 split [7]		IRS settlement offer [8]		2018 adjustments from the IRS audit team [9]	
IRS income adjustment to HCMLP	**A**	**$ -**		**See note [6]**		**$ 83,166,357**		**$ 129,528,079**		**$ 166,332,713**	
Daugherty's % of partnership [1]	B	0.7403%		0.7403%		0.7403%		0.7403%		0.7403%	
Daugherty share of IRS income adjustment	C = A x B	$ -		See note [6]		$ 615,681		$ 958,896		$ 1,231,361	
2008 applicable tax rate - 35%	D	35%		35%		35%		35%		35%	
Tax underpayment – Daugherty	**E = C x D**	$ -		**$ 59,224**		**$ 215,488**		**$ 335,614**		**$ 430,976**	
Statutory penalty [2]	**F = E x [penalty %]**	**$ -**		**$ -**	0%	**$ 21,549**	10%	**$ -**	0%	**$ 86,195**	20%
Potential interest:											
Applicable statutory blended rate [3]	G	4.59%		4.59%		4.59%		4.59%		4.59%	
Time outstanding (years) [4]	H	10.51		10.51		10.51		10.51		10.51	
Interest accrued	**I = E x G x H**	**$ -**		**$ -**		**$ 103,860**		**$ 161,758**		**$ 207,720**	
Maximum theoretical amount (underpayment + penalty + interest)	J = E + F + I	$ -		$ 59,224		$ 340,897		$ 497,371		$ 724,892	
Income on previous refund [5]	K	$ -		$ (59,224)		$ (125,409)		$ (161,758)		$ (293,915)	
Estimation amount	**L = J - K**	**$ -**		**$ -**		**$ 215,488**		**$ 335,614**		**$ 430,976**	

IMPORTANT: SEE NOTES ON THE SUCCEEDING PAGE

Notes:
[1] Ex. 17 – Form 886-Z

[2] Ex. 30 – Imposition of penalties. 20% applied to the V case (based on the 2018 adjustments); 0% applied in the II and IV case (based on the contents of those offers); 10% applied in the III case as a 50% concession.

[3] Statutory rate is short term federal rate, plus 3%, rounded to the nearest whole percent, updated quarterly, and compounding daily. The amount described herein is the blended simple rate resulting from the application of the actual statutory, daily compounding rate. Average applicable statutory rate over the period was approximately 3.8%, and the effect of daily compounding added approximately 0.8%. See Ex's: 29, 31, 32, 33.

[4] April 15, 2009 to October 16, 2019

[5] Mr. Daugherty received cash IRS refund amounts of $493,629 and $780,301 in 2009 on account of 2008 Forms 1040 and 1045, respectively (see Ex.'s 35 and 36) for a total of $1,273,930. Had Mr. Daugherty invested this refund and earned just 4%, compounding annually (an easily obtained rate of return in the 2009-2019 period), he would have earned in excess of $600,000 as of October 16, 2019. This amount dwarfs any potential penalty or interest that is potentially assessable to Mr. Daugherty in any of the five cases described herein. However, for the sake of conservatism, Highland has assumed that Mr. Daugherty's use of the $1,273,930 of refund only generated returns equal to the penalty and interest assessed in cases III, IV, and V (in other words, Highland is assuming a rate of return of substantially below 4% compounding annually in those cases). In case I, there's simply nothing owed by Daugherty to the IRS, so no income has been calculated. And in case II, there is no penalty or interest, so it is merely assumed that Mr. Daugherty would have generated at least his underpayment amount ($59,224) of income based on investing the $1,273,930 refund over the course of over ten years – a rate of return substantially below 1% annually.

[6] Ex. 22 – HUNTON_001105. Tax matters partner's offer was for a single payment of $8M in resolution of all liability for all partners. Calculation of Daugherty's share is simply $8M x his partnership share (0.7403%). It is unclear from the offer whether the tax matters partner would or could allocate the liability amongst the partners, including Daugherty, but for the sake of conservatism, it is assumed that Daugherty would have to pay a ratable share.

[7] Assumes 50% of all adjustments and penalties in the V column as a hypothetical middle of the road resolution that sits between the current known settlement offers.

[8] Ex. 21 – HUNTON_000079; Ex. 26 – HUNTON_001120. Assumes 50% concession by the IRS on adjustment FP-01, 0% concession by the IRS on adjustment FP-02, 100% concession by the IRS on adjustment FP-03. The letter description of the FP-02 adjustment is less than crystal clear, but for purposes of this calculation, the maximum adjustment is applied.

[9] Ex. 15 – Form 4605-A; $166M of adjustment to HCMLP, plus statutory penalty

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed April 10, 2026

United States Bankruptcy Judge

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055-bwo
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

JOINT PRETRIAL ORDER

[1] Highland's last four digits of its taxpayer identification number are (8357). The mailing address for Highland is 6333 E. Mockingbird Lane, Suite 147 #5045, Dallas, TX 75214.

This Joint Pretrial Order is jointly submitted to the Court for entry pursuant to Local Bankruptcy Rule 7016-1(a) and the Court's *Order Approving Second Stipulated Scheduling Order* [Docket No. 94][2] by Highland Capital Management, L.P. ("Plaintiff" or "Highland") and Patrick Hagaman Daugherty ("Daugherty," and together, the "Parties").

I. NATURE OF ACTION AND PROCEDURAL POSTURE

1. This action concerns Daugherty's contingent, unliquidated claim against Highland arising from the audit of Highland's 2008 tax return (the "Reserved Claim"), and Highland's claims against Daugherty, seeking to disallow and estimate his Reserved Claim.[3] This action also concerns Daugherty's Counterclaims (defined below).

2. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code (the "Bankruptcy Case" or the "Case"). Thereafter, Daugherty filed several proofs of claims in the Bankruptcy Case. Those claims culminated in Claim No. 205, which superseded and replaced all prior claims.

3. In November 2021, Daugherty and Highland entered into that certain *Settlement Agreement* (the "Settlement Agreement"), which resolved all aspects of Daugherty's claims against the Debtor's estate except for the Reserved Claim. On March 8, 2022, the Court entered an order approving the Settlement Agreement (the "Settlement Order") [Bankr. Docket No. 3299].[4] The Settlement Agreement provided that Highland would transfer to Daugherty its "interests in HERA and ERA," and that such transfer will include "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system . . . [and] be without representation or warranty of any type … and

[2] "Docket No. __" refers to the docket maintained in the above-captioned adversary proceeding (the "Adversary Proceeding").

[3] As set forth in Highland's contentions below, Highland is withdrawing its Third Cause of Action for subordination under Bankruptcy Code Section 510(c).

[4] "Bankr. Docket No. __" refers to the docket maintained in the Bankruptcy Case.

without any liability or material cost to HCMLP or its affiliates..." Highland Ex. 5 ¶8 (the "Books and Records Provision"). The Settlement Agreement further provided that Highland expressly "reserve[d] the right to assert any and all defenses" to the Reserved Claim. *Id*. ¶9.

4. On May 2, 2025, Highland commenced the Adversary Proceeding by filing its Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Docket No. 1] (the "Complaint"). In its Complaint, Highland asserted three claims: (a) disallowance of the Claim, (b) estimation of the Claim pursuant to 11 U.S.C. 502(c), and (c) subordination of the Claim under 11 U.S.C. § 510(b), (excluding the claim for subordination being withdrawn with prejudice, "Highland's Claims").

5. On June 5, 2025, Daugherty filed a Motion to Dismiss the Complaint [Docket No. 5]. Highland filed an Objection and a Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 [Docket No. 10]. At the hearing on Daugherty's Motion to Dismiss and Highland's Cross Motion, the Court denied the Motion to Dismiss and granted the Cross Motion. The Court's ruling struck a particular provision of the Settlement Agreement that Daugherty contends prohibited Highland from filing this Adversary Proceeding.[5]

6. On October 3, 2025, Daugherty filed his *Answer* and *Original Counterclaim* [Docket No. 39], asserting three causes of action against Highland: (a) breach of contract for breach of the Books and Records Provision; (b) specific performance through which Daugherty seeks an order requiring Highland to turn over all of HERA and ERA books and records in compliance with the Books and Records provision; and (c) attorneys' fees arising from Highland's allegedly bad faith

[5] Daugherty appealed to the district court from this Court's order granting the Cross Motion. That appeal is still pending. Daugherty does not intend to relitigate those issues at the upcoming April 17 hearing, but Daugherty is not waiving his existing appeal or any right to re-raise the issue in an appeal from the Court's ruling after the April 17 hearing.

conduct in commencing the Adversary Proceeding (collectively, the "Counterclaims"). On October 24, 2025, Highland filed its *Answer* to the Counterclaims (which included its affirmative defenses) [Docket No. 56].

7. A trial on Highland's Claims and Daugherty's Counterclaims is scheduled for April 17, 2026.

II. STATEMENT OF STIPULATED FACTS

A. The Parties Stipulate to the Following Facts:

8. From 1998-2011, Daugherty was employed by Highland.

9. Daugherty and Highland entered into that certain Amended Employment Agreement dated as of December 31, 2004 (the "Employment Agreement"). Highland Ex. 11.

10. On or about February 27, 2009, Highland issued to Daugherty a Comprehensive Compensation and Benefits Statement. Highland Ex. 13 (the "Comprehensive Statement").

11. In 2009, based on a draft Schedule K-1 that Highland provided to him, Daugherty filed his 2008 federal income tax return.

12. In 2009, Daugherty received refunds from the IRS of previously paid taxes in the amounts of $493,629 and $780,301 related to his 2008 Individual Income Tax Return (Form 1040) and his 2008 Application for Tentative Refund (Form 1045), respectively. These forms incorporated Highland's losses that had been allocated to him as provided for in the draft Schedule K-1.

13. On March 3, 2010, the IRS notified Highland that it was initiating an audit of Highland's 2008 federal income tax returns.

14. On September 28, 2011, Daugherty gave voluntarily notice of resignation from all positions at Highland. Highland Ex. 12. His last day as an employee at Highland was October 31, 2011.

15. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code (the "Bankruptcy Case").

16. On February 22, 2021, the Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Main Docket No. 1943] (the "Confirmation Order") with respect to the Plan.[6]

17. The Plan included a form of *Claimant Trust Agreement* (the "CTA"). [Bankr. Docket No. 1811, Exhibit R (preamble)].

18. The Plan created the CTA when the Plan went effective on August 11, 2021. [Main Docket No. 2700].

19. On November 22, 2021, Daugherty and Highland executed the Settlement Agreement. Highland Ex. 5.

20. On March 8, 2022, the Court entered the Settlement Order approving the Settlement Agreement.

21. On May 5, 2022, and October 19, 2022, Highland delivered certain documents and materials to Daugherty as reflected in Daugherty Exhibits 33 and 34, respectively.

22. The Reserved Claim remains disputed, contingent, and unliquidated.

III. CONTESTED ISSUES OF FACT

The statements and contentions in this section reflect the respective views of each Party and are not a joint statement or stipulation. No Party admits, agrees, or acquiesces to any factual or legal contentions, statements, or allegations of any other Party.

23. The Parties disagree on the following issues of fact:

- Whether the Compensation Statement is a binding and enforceable contract (Mixed

[6] The "Plan" refers to the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on the main docket at Docket No. 1808. The Confirmation Order was subsequently modified for reasons irrelevant to the Motion. *See* Main Docket No. 4378.

question of law and fact)?

- Whether Highland fulfilled its obligations, if any, under the Compensation Statement?
- If the Compensation Statement is an enforceable contract, and Highland has not fulfilled its obligations thereunder, whether Daugherty's Reserved Claim can be estimated in accordance with Section 502(c) of the Bankruptcy Code (Mixed question of law and fact)?
- If Daugherty's Reserved Claim can be estimated, how much should the Reserved Claim be estimated at for purposes of allowance.
- Whether the failure to estimate Daugherty's Reserved Claim before August 11, 2026, would unduly delay the administration of Highland's bankruptcy case?
- Whether Highland breached the Settlement Agreement's Books and Records Provision?
- Whether Highland acted in "bad faith" and is therefore liable for Daugherty's attorneys' fees?

IV. CONTESTED ISSUES OF LAW

24. The Parties disagree on the following issues of law:

- The Parties disagree over whether Daugherty's Reserved Claim should be disallowed (Mixed question of law and fact).
- The Parties disagree about whether Highland fulfilled its obligations under the Books and Records Provision (Mixed question of law and fact).
- The Parties disagree about whether Daugherty's breach of contract claim is barred by the statute of limitations.
- The parties disagree about who has the ultimate burden of proof on each cause of action and what those burdens are.

1. Estimated length of trial.

25. The Parties estimate that trial in this case will take one full day.

2. Additional matters that might aid in the disposition of the case.

26. None at this time.

V. PARTIES' CLAIMS AND DEFENSES

The following statements and contentions of the respective Parties in this Section reflect the respective views of each Party and are not a joint statement or stipulation. No Party admits,

agrees, or acquiesces to any factual or legal contentions, statements, or allegations of any other Party.

A. Summary of Highland's Claims and Defenses

1. Daugherty Has the Ultimate Burden of Proof

27. Under 11 U.S.C. § 502(a) a "claim ..., proof of which is filed under section 501 [of the Bankruptcy Code], is deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a). The ultimate burden of proof for a claim always lies with the claimant. *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep't of Rev.*, 530 U.S. 15 (2000)). Thus, Daugherty has the ultimate burden of proof with respect to the allowance and amount of his Reserved Claim.

28. Daugherty also has the ultimate burden of proof with respect to each of his Counterclaims.

2. Daugherty's Claim Should Be Disallowed

29. Daugherty's Claim should be disallowed for three independent reasons: (a) the Compensation Statement[7] is unenforceable as a contract because it is vague and indefinite and is missing material terms required to form a contract; (b) if the Compensation Statement creates an enforceable contract, Highland long-ago satisfied any obligations it may have had thereunder; and (c) under the plain and unambiguous terms of the Employment Agreement,[8] Daugherty surrendered any rights he may have had under the Compensation Statement when he voluntarily resigned from all positions at Highland in October 2011.

[7] Highland Ex. 13.

[8] Highland Ex. 11.

a. Material Terms of the Compensation Statement Are Either Vague or Indefinite or Are Missing Such that the No "Agreement" Was Reached and Claims Under the Compensation Statement are Unenforceable as a Matter of Law

30. The Compensation Statement does not constitute an offer by Highland and acceptance by Daugherty, an "at will" employee with an Employment Agreement, for anything. It is simply a summary of what Highland had or was going to pay Daugherty for services he had already performed during the prior year and a reiteration of his base salary for the next year. Every employee of Highland received a similar statement every year at the end of the performance review cycle each February. Material terms in the Compensation Statement Daugherty relies upon to claim an enforceable agreement are either vague or indefinite or are completely missing such that the so-called "agreement" is unenforceable as a matter of law. As relevant here, the alleged "agreement" is contained in three sentences that state only: "Refund is an ***estimated amount***. If actual refund deviates ***materially*** from estimate, ***other compensation*** will be ***fairly adjusted***. Refund is expected to be received in approximately 4 months."[9] That's it.

31. Under Texas law, a contract that fails to address all of its essential and material terms with a reasonable degree of certainty and definiteness is unenforceable as a matter of law. *See APS Cap. Corp. v. Mesa Air Grp., Inc.*, 580 F.3d 265, 272 (5th Cir. 2009) ("In order to be a legally enforceable contract, an agreement must be formed around the contours of sufficiently specific terms."). Material terms "are those that the parties would reasonably regard as vitally important elements of their bargain," and "a contract must define its essential terms with enough precision to enable the court to determine the obligations of the parties." *In re ACM-Tex., Inc.*, 430 B.R. 371, 408 (Bankr. W.D. Tex. 2010); *see also Wesdem, LLC v. Illinois Tool Works Inc.*, 2022 WL 18585978,

[9] Highland Ex. 13 (emphasis added).

at *4 (W.D. Tex. July 28, 2022), *aff'd sub nom.*, 70 F.4th 285 (5th Cir. 2023) ("Where the agreement is so indefinite that the Court must 'speculate' about its terms, the contract fails 'as a matter of law.'") (quoting *RealPage, Inc. v. EPS, Inc.*, 560 F. Supp. 2d 539, 547 (E.D. Tex. 2007) (granting summary judgment on a breach of contract claim because the licensing agreement failed to specify the product to be licensed and its price, affording the court no basis for understanding the parties' obligations); *Coppock v. Doug's Corner, Inc.*, No. 5:21-CV-43-RWS-JBB, 2023 WL 11947178, at *3 (E.D. Tex. May 17, 2023) (noting that "the agreement's terms must also be sufficiently definite to 'enable a court to understand the parties' obligations' and to give 'an appropriate remedy' if they are breached.") (quoting *Fischer v. CTMI, L.L.C.*, 479 S.W.3d 231, 237 (Tex. 2016)).

32. "As a general matter, Texas courts have consistently held that a contract may be held void for indefiniteness if it fails to specify 'the time of performance, the price to be paid, the work to be done, the service to be rendered, or the property to be transferred.'" *Liberto v. D.F. Stauffer Biscuit Co.*, 441 F.3d 318, 324 (5th Cir. 2006) (quoting *Engelman Irr. Dist. v. Shields Bros.*, 960 S.W.2d 343, 352 (Tex. App. 1997)). "The question of indefiniteness—whether an agreement reaches all essential terms of a given transaction—is one of law for the court." *APS*, 580 F.3d at 271 (citing **COC Svcs., Ltd. v. CompUSA, Inc.,** 150 S.W.3d 654, 664 (Tex.App.—Dallas 2004)).

33. Here, under Texas law, the Compensation Statement either contains vague or indefinite terms, or omits material terms, that render it unenforceable.

34. ***First***, the 2008 tax refund is explicitly stated to be an "estimated" amount. While unstated, the refund could only come from the IRS (as the taxing authority), not Highland. But the amount is not clear; it is merely estimated because a tax refund to an individual can only be determined after that individual files his/her tax return and all of the individual's particularized tax

attributes are taken into consideration.[10] While Highland could (and did quite accurately) estimate the amount of losses it would pass through to Daugherty as a limited partner, and could therefore estimate the potential tax refund solely on account of those losses, it could not set forth with definiteness the amount of the refund Daugherty would get from the IRS. Accordingly, the prospective amount of the refund was an estimate—and "estimates" are necessarily uncertain.

35. ***Second***, as used in the Compensation Statement, the word "materially" is vague and ambiguous. To create an enforceable obligation, the Court must determine, among other things, whether the actual refund Daugherty received from the IRS "deviate[s] "materially" from [the] estimate." Here, the estimate was $1,475,816[11], which as contemporaneous evidence shows, wasn't an estimate of the cash refund that Daugherty could expect to receive, but rather an estimate of the pre-tax equivalent of such a refund. In other words, the amount reflected on the Compensation Statement was a 35% "grossed-up" amount of his estimated cash refund of $959,280 to reflect what the refund would feel like to Daugherty on an "apples-to-apples" basis with other pre-tax compensation amounts. There is simply no agreed way to determine whether a refund amount received is materially consistent with the grossed-up amount listed on the Compensation Statement.

36. ***Third***, the phrase "other compensation" is also vague and ambiguous because it had many potential permutations at the time. The Compensation Statement proves the point as it identifies myriad forms of "Earnings and Awards" and "Highland Paid Benefits" that comprise the "Total Compensation Package" that Daugherty received for services he provided to Highland in 2008, including: (a) base salary, (b) tax refund, (c) loan forgiveness, (d) other awards (including a

[10] This would include things like other sources of income, unrelated capital gains and losses from investments, unrelated K-1's from other partnerships, spousal income, estimated tax payments the individual or their spouse made during the year, individual itemized deductions, and a litany of others. Each of these factors can impact an individual's refund or tax owed each year, and Highland did not have visibility into all the factors impacting Daugherty's "married-filing-jointly" return.

[11] Highland Ex. 13.

401(k) match and a "defined benefit"); and (e) deferred compensation.[12] In all, as reflected on the Compensation Statement, Daugherty was compensated 13 different ways in 2008 alone, and other years had even more methods of "compensation". To create a contract out of the Compensation Statement, the Court would have to pick without guidance which method of compensation should be adjusted.

37. ***Fourth***, the phrase "fairly adjusted" is another subjective term susceptible to differing meanings. Indeed, it is hard to imagine in 2011 that Daugherty and Highland would have reached an agreement on what was "fair." Had the parties intended to reach a binding "agreement," they surely would have done so. Again, to create Daugherty's alleged agreement, the Court will have to identify on its own what amount would have been deemed "fair" by the parties in February 2009.

38. ***Finally***, the Compensation Statement omits numerous material terms. For example, the Compensation Statement does not (a) mention what happens if an actual tax refund is received by Daugherty (as it was) but that refund is subject to potential recovery by the IRS (as it always is); (b) reference or even consider the possibility of an audit of Highland or Daugherty; (c) provide for what would happen in the event of an audit adjustment affecting Highland or Daugherty; (d) include any time frame or due date for any potential adjustment of "other compensation"; (e) state that Highland would "adjust other compensation" to account for any interest or penalties arising in connection with any unconsidered audit; (f) state that Highland would "make Daugherty whole" if any portion of the refund was clawed back after the unconsidered audit; (g) state that any obligation Highland purportedly had would continue indefinitely, even after Daugherty was no longer affiliated with Highland; or (h) contain the words "indemnify," "reimburse," "cover," "back-stop," or phrases

[12] Highland Ex. 13. The Compensation Statement also ascribes value to paid benefits as part of Daugherty's "total compensation package", including benefits like life insurance, disability insurance, executive long-term disability, daily catered lunches, "Blackberry" charges, and paid parking.

of similar import. Contemporaneous evidence actually contradicts Daugherty's theory of endless indemnification – that rather, tax refunds "are not guaranteed, as the IRS still has the authority to audit our claimed losses and resulting refunds due."[13] It is indisputable that Highland did not (1) even file its 2008 partnership return until nearly seven months *after* giving Daugherty the Compensation Statement, and (2) learn that the 2008 partnership return was selected for an IRS audit until *March 2010*.

39. In sum, the Compensation Statement is not an enforceable contract as a matter of law because essential terms to form an agreement are either vague, indefinite, or missing. For this reason alone, the Claim should be disallowed.

b. Highland Satisfied its Obligations Under the Compensation Statement

40. Even if the unsigned Compensation Statement is deemed an enforceable contract, Highland satisfied any obligations it may have had long ago because Daugherty received a tax refund from the IRS based on partnership losses passed to him and reflected in a draft Form K-1 for 2008 that Highland provided to him, which was further validated by a final Form K-1 for 2008 that was provided in September 2009. (the "2008 K-1").[14] Specifically, as reflected on his final 2008 K-1, Daugherty was allocated ordinary business losses by Highland in excess of $4 million, along with other losses that well-exceeded the partnership allocated income he received from Highland during 2005-2007. Thus, Daugherty received even more than what was referenced in the Compensation Statement which resulted in a greater refund for Daugherty than estimated. In other words, the allocation to Daugherty of over $4 million of actual losses from 2008 reflected in the final Form K-

[13] Highland Ex. 47.

[14] Daugherty Ex. 26 (draft 2008 K-1); Daugherty Ex. 24 (final 2008 K-1).

1 delivered in 2009 (when tax-effected at 35%) exceeded the originally estimated cash refund which formed the basis of the amount referenced in the Compensation Statement.

41. When Daugherty voluntarily terminated his employment with Highland in October 2011, he acknowledged and agreed that, pursuant to the express conditions of his Employment Agreement, Highland would "have no further liability or obligation to [Daugherty] under [the Employment Agreement] or in connection with his/her employment of termination."

42. Highland, therefore, satisfied its obligations (to the extent it had any) under the Compensation Statement and Employment Agreement in full. Accordingly, the Claim should be disallowed in its entirety.

c. Under the Terms of His Employment Agreement, Daugherty Forfeited Any Right He May Have Had to Compensation When He Resigned.

43. Even if the Compensation Statement was enforceable, Daugherty's Claim still fails because he forfeited any rights he had thereunder when he terminated his employment at Highland in October 2011.

44. Daugherty voluntarily resigned from Highland on September 28, 2011, and his employment terminated on October 31, 2011.[15] By his own contention, the 2008 Tax Refund that Daugherty received from Highland was part of his discretionary bonus under the Employment Agreement. But Daugherty surrendered any right he may have had to a bonus under the Compensation Statement (to the extent he had any) when he voluntarily terminated his employment at Highland. The Employment Agreement expressly states that Daugherty must be employed in order to be eligible for a bonus. Section 3.1 of the Employment Agreement provides:

> Salary and Bonus. The annual salary (the ***"Base Salary")*** payable to the Executive during the term of this Agreement shall be an amount

[15] Daugherty Ex. 15.

> determined by the Company (in its sole discretion) and communicated in writing to the Executive, and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon the Executive's performance and shall be determined by the Company in its sole discretion. In addition, the Company ***may*** from time to time award bonuses to the Executive based on such criteria as the Company ***may establish in its discretion***. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. ***The Executive must be employed on the payment date(s) in order to be eligible for the bonus.*** The payment of salary and bonuses shall be subject to all federal, state and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of the Executive's compensation does not constitute a guarantee of employment for any specific period of time.[16]

45. Daugherty terminated his employment at Highland on October 31, 2011, and therefore, was no longer eligible for any bonus under the Employment Agreement after that date. Daugherty has admitted this in writing 15 years ago -- literally the day before he resigned in 2011. Highland Ex. 38 ("I would have to be employed at Highland in order to get any payment of bonus (as has always been the case).").

46. Further, Section 4.5 of the Employment Agreement expressly addresses Highland's liability to Daugherty in the event Daugherty voluntarily terminates his employment and does not take up work with a "competing business":

> In the event that [Daugherty] terminates his/her Continuous Status as an Executive hereunder and within one (1) year thereafter [Daugherty] is not employed by a Competing Business, [Highland] shall have no further liability or obligation to [Daugherty] under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any accrued but unused vacation time, (iii) any amounts or rights to which [Daugherty] is entitled under any other written agreement with [Highland], (iv) any unreimbursed expenses properly incurred prior to the date of termination, and (v) severance pay equal to the product of (a) two (2) weeks Base Salary … multiplied by (b) the number of

[16] Highland Ex. 11 §3.1(a)(emphasis added).

> [years of service]… [total severance not to exceed six weeks of Base Salary]... [Daugherty] acknowledges that [Highland's] obligation to pay severance, if any, will arise only … if [Daugherty] signs and returns a duly executed separation agreement and release substantially in the form attached hereto as Exhibit A….***In the event that [Daugherty] declines to sign the separation agreement and release, he/she shall not be entitled to any severance, and [Highland] will have no further liability or obligation to Daugherty under this Agreement or in connection with his/her employment or termination***. [17]

47. Since Daugherty did not sign the separation and release form and deliver it to Highland and elected to counter-sue Highland under the Employment Agreement instead (and lost against Highland),[18] he forfeited any right he may have had under the Compensation Statement for any additional consideration, including his claim for unlimited indemnity or adjustment of other pre-termination compensation.

48. Finally, one other document proves that the Parties never believed the Compensation Statement constituted an agreement that would survive Daugherty's termination from Highland: a form of Separation Agreement Daugherty refused to sign following his resignation (the "Draft Separation Agreement").[19] The Draft Separation Agreement contains, among other things, the very promise by Highland pay taxes, interest, and penalties arising from an audit of Highland's tax returns (the "Rejected Indemnity") that Daugherty now claims is implicitly included in the Compensation Statement. The evidence will show that in October 2011, when Daugherty was presented with the Draft Separation Agreement, the IRS was *only* auditing Highland's 2008 return. There would have been no reason to include the Rejected Indemnity in the Draft Separation Agreement if the Parties

[17] Highland Ex. 11 at §4.5 (emphasis added).

[18] *See* Highland Ex. 44.

[19] Daugherty Ex. 44 §3(b)(ii).

believed it was already included in the Compensation Statement and would survive Daugherty's termination.

3. Daugherty's Claim Must Be Estimated Under Section 502(c)

49. Even if Daugherty's Claim is allowed, it must be estimated under Section 502(c) of the Bankruptcy Code ("Section 502(c)"). Under Section 502(c), the Bankruptcy Court is required to estimate contingent and unliquidated claims for allowance purposes in the circumstances present here.[20] The statute provides: "[t]here shall be estimated for purposes of allowance ... (1) any contingent or unliquidated claim, the fixing or liquidation of which ... would unduly delay the administration of the case ...." 11 U.S.C. § 502(c).

50. "The public policy underlying claims estimation under the Code is to facilitate the timely administration of the case by making an expeditious assessment of the value of certain claims which would otherwise unduly delay administration." *In re Perry*, 425 B.R. 323, 381 (Bankr. S.D. Tex. 2010). Thus, where, as here, both prerequisites are met, the bankruptcy court does not merely have discretion to estimate – it has an affirmative mandatory duty to do so. The method by which the bankruptcy court estimates a claim under Section 502(c) is within the court's broad discretion. *See Matter of Brints Cotton Mktg., Inc.*, 737 F.2d 1338, 1341 (5th Cir. 1984) ("A bankruptcy court's estimation of the value of an unliquidated claim, the liquidation of which would unduly delay the proceedings, may be disturbed on appellate review only in the event of an abuse of discretion.").

[20] Daugherty's expert opines that Daugherty's Claim cannot possibly be estimated until all disputes concerning the 2008 Audit are finally resolved, if then. Aside from the fact that the expert is wrong (see below), Daugherty cannot reconcile his expert's opinion with Congress' explicit mandate reflected in the plain text of in Section 502(c)—and that's not surprising since Daugherty's expert admits he has no bankruptcy expertise and is unfamiliar with Section 502(c). Indeed, if Daugherty's expert is right, and Daugherty's Claim cannot possibly be estimated, then the Claim should be disallowed as too speculative. The one result that is ***not*** permitted under the circumstances is that Daugherty gets to hold up implementation of the express agreement between Highland and all of its stakeholders (as reflected in the court-approved Plan and Claimant Trust Agreement) concerning the deadline for the resolution of claims and the commencement of dissolution (*i.e.*, August 11, 2026).

51. Daugherty's Claim, which is both contingent and unliquidated, is precisely the type of claim that must be estimated under Section 502(c). As set forth above, the Plan was confirmed in February of 2021 and has been effective since August of 2021. Under the Sunset Provisions[21] in the Plan, CTA, Confirmation Order, and related extension orders, Highland must resolve all disputed claims, and the Highland Claimant Trust must commence the Dissolution Process, by August 11, 2026. Mr. Daugherty's Claim is the last unresolved claim against Highland's estate. Although the parties dispute whether the IRS made a "final determination" with respect to the completed 2008 IRS tax audit that concluded in 2018,[22] they agree that any final resolution of the appeal of the audit results will not be complete by the court-ordered and Plan-mandated August 11, 2026 deadline to resolve the estate's outstanding claims and commence Highland's dissolution process. Thus, if Daugherty' Claim is not estimated, Highland will be in violation of the Confirmation Order and the Extension Order and the administration of the bankruptcy case will be unduly delayed. Accordingly, this Court is required to exercise its congressionally mandated duty to estimate Daugherty's Claim under Section 502(c).

52. In applying Section 502(c), the Court has ample information to apply a reasonable methodology to estimate Daugherty's Claim, assuming any liability for Highland. The only figure subject to estimation is the amount of adjustment to Highland's 2008 partnership return (the "HCMLP Income Adjustment"). Once the sole, unknown variable—the HCMLP Income Adjustment—is estimated, the amount of Daugherty's Claim may be determined by a simple

[21] *See generally* Highland's *Motion for An Order Further Extending Duration of Trusts*, Docket 4213 (the "Extension Motion"). This Court granted the Extension Motion and extended the life of the Claimant Trust only until August 11, 2026. Docket No. 4298 (the "Extension Order").

[22] The dispute over whether "the IRS [made] a final determination with respect to the IRS Audit Dispute" (Highland Ex. 5 ¶9) was addressed by this Court when it granted Highland's motion under Rule 60 to strike the Stay Provision from the Settlement Agreement (Adv. Pro. Docket No. 23), and is irrelevant to the current dispute before the Court. *See also Memorandum Opinion and Order*, Adv. Pro. Docket No. 80) (denying Daugherty motion to stay adversary proceeding pending appeal of order granting Highland's Rule 60 motion).

arithmetic formula: [HCMLP Income Adjustment] x [Daugherty's 0.7403 percentage interest in the partnership as of the December 31, 2008]; x [Daugherty's 35% maximum personal federal income tax rate as of December 31, 2008]. Thus, the Court can reasonably estimate Daugherty's Claim by plugging in one of four different numbers for the HCMLP Income Adjustment, which in all but one case requires no subjectivity whatsoever: (i) the IRS's original determination at the conclusion of the 2018 audit;[23] (ii) the IRS's 2024 offer to the tax matters partner (Dondero) of a discounted settlement; (iii) Dondero's 2025 offer to the IRS of an even further discounted settlement; or (iv) some estimate of a hypothetical discounted settlement based on the several existing known data points. The results are set forth in the demonstrative exhibit attached as Highland D-1.

53. While Highland believes there is no basis to hold it liable for any penalties or interest that Daugherty could be required to pay on account of an "underpayment" amount resulting from HCMLP Income Adjustment, as further set forth below, Highland has nevertheless calculated these objective and statutorily determined amounts in the same demonstrative for the sake of completeness and to provide the Court with all the tools it needs to fulfill its mandate. Even if the Compensation Statement is deemed to be an enforceable contract (which Highland disputes), such Compensation Statement makes no reference to penalties or interest whatsoever, nor does it provide for any indemnification or similar obligations with respect thereto (and in fact, contemporaneous evidence contradicts such a notion). That said, even if the Court determines that the claim ought to be allowed and should include some estimate for penalties and/or interest, Daugherty has benefited from having actually received the original $1.3 million refund amount from the IRS in 2009, and Daugherty has

[23] *See* Highland Ex. 15 – Form 4605-A. And note further that while the Form 4605-A contains a $166 million adjustment to the Highland 2008 portfolio income, it also affirms $546 million of 2008 ordinary losses that Highland had reflected on its original tax return. The income adjustment, and the subsequent dispute over the adjustment, only concerns a fraction – roughly 30% - of the overall losses Highland reported, as further validated by all settlement negotiations that have since followed.

an affirmative duty to mitigate any damages arising from penalties and/or interest, which could have been accomplished through investment of the tax refund he received. Even assuming extremely conservative rates of return on such a hypothetical investment, such returns would dwarf the penalties and interest the IRS would charge in any of the scenarios described in the demonstrative.[24]

54. The Court may also use another methodology it deems appropriate under the circumstances. But there can be no dispute that this is the exact type of situation that mandates claim estimation. Accordingly, if Daugherty's Claim is allowed, it shall be estimated under Section 502(c).

4. Highland Withdraws Its Third Cause Of Action--Subordination Under Section 510(b)—With Prejudice

55. Upon reflection, Highland withdraws with prejudice its Third Cause of Action for the subordination of Daugherty's Claim pursuant Bankruptcy Code section 510(b) because (a) Daugherty's Claim has long been subject to a reserve in an amount that greatly exceeds any plausible estimate of value, (b) withdrawal will simplify the trial by eliminating the Parties' burden of litigating whether (i) Daugherty's Claim should be subordinated, and (ii) if so, whether it should be subordinated to Class 10 and Class 11, (c) withdrawal will reduce this Court's burden to decide such issues, (d) withdrawal will narrow the scope of any potential appeal, and (e) Daugherty cannot be prejudiced because, if the Court determines that the Compensation Statement is an enforceable contract, and estimates Daugherty's Claim, the Claim will remain in Class 8 where it has always been and will be paid in full.[25]

[24] Mr. Daugherty has had the use of the 2008 Refund *for more than 16 years* during a historically bullish period for investors, with the S&P 500, for example, returning approximately 10x for investors from the start of 2009 to early 2026. For underpayment with a filed return, the IRS charges a one-time 20% penalty on the underpaid amount, and the effective interest rate on the underpayment since Daugherty received the refund would be approximately 4.6% per year by statute.

[25] If Daugherty's Claim is subordinated to Class 10, it will receive a small fraction of its allowed amount that will be potentially paid by the Highland Claimant Trust over an indeterminate period of time. If Daugherty's Claim is subordinated to Class 11, it will be valueless since the holders of Class 10 interests will never be paid in full.

56. Based on the foregoing, Highland hereby gives notice that it withdraws with prejudice its Third Cause of Action for subordination.

5. Daugherty's Counterclaim for Books and Records is meritless

57. This counterclaim is a narrow issue that is definitively covered by the terms of the Settlement Agreement and Highland's satisfaction of its obligations. Under the Settlement Agreement, Highland agreed to "transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type. . . Such transfer will be without any liability or material cost to HCMLP or its affiliates . . ."[26]

58. While Daugherty negotiated Section 8 directly with Highland's Chief Executive Officer, James P. Seery, Jr., Daugherty has no recollection about the negotiations of this provision or why the unique phrase "books and records (spreadsheet)" was included. Seery does—and he will testify that phrase and accompanying text (a) refers to a specific set of documents and (b) was used to circumscribe the documents Highland would turn over to Daugherty. Yet here we are.

59. Despite having no recollection of the meaning and intent of Section 8, Daugherty has asserted a counterclaim contending that Highland breached its obligation under Section 8 by failing to provide all of HERA and ERA's "books and records" and suggests Highland will be liable for consequential damages if HERA does not prevail in unrelated litigation.[27] Daugherty has also asserted counterclaims for specific performance and attorney's fees. Daugherty's counterclaims are meritless.

[26] Highland Ex. 5 ¶8 ("Section 8")

[27] Highland Ex. 1 ¶¶12-13 (Counterclaim).

60. There is no dispute that HERA and ERA (a) were shell entities established for the sole purpose of holding limited, passive assets for the benefit of certain then-Highland employees as a compensation vehicle, and (b) never had any of its own employees or operations of any kind. With that in mind, the evidence will show that on May 5, 2022, just after this Court approved the Settlement Agreement, Highland delivered to Daugherty "HERA and ERA books and records" available on Highland's system, together with tax documents, and noted that, subject to a final review, it had fulfilled its obligations under Section 8.[28]

61. On October 19, 2022, in an effort to placate Mr. Daugherty, Highland provided additional information concerning HERA and ERA (including back-up for virtually all of HERA's historically recorded expenses reflected in the records previously delivered to Daugherty) and re-iterated its position that it had "satisfied all of its obligations under the settlement agreement, and our involvement in HERA/ERA (your entities) will be complete."[29]

62. Daugherty did not raise the issue of "books and records" again until January 30, 2024, when Gray Reed requested[30] that Highland supplement its delivery of documents seeking Word, Excel, and Powerpoint documents, email correspondence, legal communications, among others, all with corresponding metadata, and requesting that Highland employ an outside vendor to collect and produce the documents.

63. With Gray Reed having not yet received a substantive response from Highland, on February 29, 2024, HERA filed its original complaint against 24 individuals, law firms, or other entities.

[28] Daugherty Ex. 33.

[29] Daugherty Ex. 34.

[30] Highland Ex. 53

64. Just days later, on March 5, 2024, Highland's counsel responded to the January 30, 2024 letter, and stood by Highland's prior statements that it had fulfilled its obligations under the Settlement Agreement[31]

65. Then, two months later, on May 10, 2024 when a new Daugherty lawyer suddenly demanded a broad swath of documents concerning HERA and ERA that had been demanded by Gray Reed on January 30, 2024, while misquoting the settlement agreement along the way and again requesting that Highland's use of an outside vendor. Highland responded within hours, rejected Daugherty's newest demands, reiterated yet again that it believed that it had fulfilled its obligations under Section 8, and expressly invited Daugherty to seek judicial relief to finally bring the matter to a close. [32]

66. Daugherty did no such thing because—as he has proven time and time again—Daugherty has no interest in resolving anything. Thus, rather than sue Highland and enforce his purported rights under the Settlement Agreement and bring finality to the issue, Daugherty will admit that he voluntarily chose to commence an action in federal district court on behalf of HERA and ERA (the "HERA Action") knowing that Highland had refused to produce any further documents concerning those entities.[33] Daugherty will also admit that even in the face of a motion to dismiss the HERA Action, Daugherty chose not to seek leave to seek additional documents from Highland, a entity known to be in the latter stages of liquidating. It was only in October 2025, after being forced to litigate his unrelated tax claim and three and a half years after Highland informed him that it believed it had fulfilled its obligations under Section 8, that Daugherty finally sought to enforce his purported rights.

[31] Highland Ex. 54

[32] Daugherty Ex. 35.

[33] Highland Ex. 1 ¶¶12-13 (Counterclaim).

67. The evidence will show that Daugherty's breach of contract claim is barred by the three-year statute of limitations and that Highland otherwise did not breach Section 8.[34]

B. Summary of Daugherty's Claims and Defenses

68. Daugherty understood the local rule to require a brief summary (identification) of the claims and defenses that are at issue in the adversary proceeding hearing, and that either party could file a separate trial brief addressing issues that they belief were pertinent to the upcoming hearing. Daugherty intends to file a separate trial brief on April 13, pursuant to the Second Stipulated Scheduling Order [Docket No. 94].

69. Daugherty asserts three causes of action against Highland. First, Daugherty has a breach of contract claim related to his contention that Highland violated the Settlement Agreement's Books and Records Provision. Second, Daugherty has a cause of action for specific performance through which Daugherty seeks an order requiring Highland to fully comply with the Books and Records Provision. Third, Daugherty seeks his attorneys' fees related to his position that Highland breached the Settlement Agreement in bad faith.

70. Daugherty's defense against Highland's claim is equitable estoppel. Daugherty also continues to maintain that the Settlement Agreement's stay provision (which is quoted above) precludes Highland from filing this adversary proceeding because there has not been a final determination with respect to the IRS Audit Dispute. Daugherty has appealed that issue to the district court in connection with this Court's grant of Highland's Cross Motion under Rule 9024, which

[34] Daugherty's second cause of action is unnecessary. If the Court finds that there is a category of documents included within Section 8 that Highland has not previously produced, Highland will produce such documents within 15 days of the entry of the Court's order. And if Daugherty actually burdens the Court by pursuing his absurd claim for attorneys' fees based on Highland's supposed "bad faith" commencement of this adversary proceeding—a decision validated by this Court's Rule 60 decision—Highland will address it at that time.

struck the stay provision. Although Daugherty is not going to relitigate that issue at the April 17 hearing, he is not waiving his pending appeal or any arguments relating to this issue.

###End of Order###

GRAY REED

By: */s/ Drake M. Rayshell*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

-and-

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

HIGHLAND D-1

	Case:	I		II		III		IV		V	
		MIN ESTIMATION AMT.		TMP ACCEPTED AMT.		MID-POINT AMT.		IRS OFFER AMT.		MAX 2018 AUDIT AMT.	
	Reference/formula	Complete reversal of 2018 audit		Tax Matters Partner offer to IRS [6]		Hypothetical complete 50/50 split [7]		IRS settlement offer [8]		2018 adjustments from the IRS audit team [9]	
IRS income adjustment to HCMLP	**A**	**$ -**		**See note [6]**		**$ 83,166,357**		**$ 129,528,079**		**$ 166,332,713**	
Daugherty's % of partnership [1]	B	0.7403%		0.7403%		0.7403%		0.7403%		0.7403%	
Daugherty share of IRS income adjustment	C = A x B	$ -		See note [6]		$ 615,681		$ 958,896		$ 1,231,361	
2008 applicable tax rate - 35%	D	35%		35%		35%		35%		35%	
Tax underpayment – Daugherty	**E = C x D**	$ -		**$ 59,224**		**$ 215,488**		**$ 335,614**		**$ 430,976**	
Statutory penalty [2]	**F = E x [penalty %]**	**$ -**		**$ -**	0%	**$ 21,549**	10%	**$ -**	0%	**$ 86,195**	20%
Potential interest:											
Applicable statutory blended rate [3]	G	4.59%		4.59%		4.59%		4.59%		4.59%	
Time outstanding (years) [4]	H	10.51		10.51		10.51		10.51		10.51	
Interest accrued	**I = E x G x H**	**$ -**		**$ -**		**$ 103,860**		**$ 161,758**		**$ 207,720**	
Maximum theoretical amount (underpayment + penalty + interest)	J = E + F + I	$ -		$ 59,224		$ 340,897		$ 497,371		$ 724,892	
Income on previous refund [5]	K	$ -		$ (59,224)		$ (125,409)		$ (161,758)		$ (293,915)	
Estimation amount	**L = J - K**	**$ -**		**$ -**		**$ 215,488**		**$ 335,614**		**$ 430,976**	

IMPORTANT: SEE NOTES ON THE SUCCEEDING PAGE

Notes:
[1] Ex. 17 – Form 886-Z

[2] Ex. 30 – Imposition of penalties. 20% applied to the V case (based on the 2018 adjustments); 0% applied in the II and IV case (based on the contents of those offers); 10% applied to the III case as a 50% concession.

[3] Statutory rate is short term federal rate, plus 3%, rounded to the nearest whole percent, updated quarterly, and compounding daily. The amount described herein is the blended simple rate resulting from the application of the actual statutory, daily compounding rate. Average applicable statutory rate over the period was approximately 3.8%, and the effect of daily compounding added approximately 0.8%. See Ex's: 29, 31, 32, 33.

[4] April 15, 2009 to October 16, 2019

[5] Mr. Daugherty received cash IRS refund amounts of $493,629 and $780,301 in 2009 on account of 2008 Forms 1040 and 1045, respectively (see Ex.'s 35 and 36) for a total of $1,273,930. Had Mr. Daugherty invested this refund and earned just 4%, compounding annually (an easily obtained rate of return in the 2009-2019 period), he would have earned in excess of $600,000 as of October 16, 2019. This amount dwarfs any potential penalty or interest that is potentially assessable to Mr. Daugherty in any of the five cases described herein. However, for the sake of conservatism, Highland has assumed that Mr. Daugherty's use of the $1,273,930 of refund only generated returns equal to the penalty and interest assessed in cases III, IV and V (in other words, Highland is assuming a rate of return of substantially below 4% compounding annually in those cases). In case I, there's simply nothing owed by Daugherty to the IRS, so no income has been calculated. And in case II, there is no penalty or interest, so it is merely assumed that Mr. Daugherty would have generated at least his underpayment amount ($59,224) of income based on investing the $1,273,930 refund over the course of over ten years – a rate of return substantially below 1% annually.

[6] Ex. 22 – HUNTON_001105. Tax matters partner's offer was for a single payment of $8M in resolution of all liability for all partners. Calculation of Daugherty's share is simply $8M x his partnership share (0.7403%). It is unclear from the offer whether the tax matters partner would or could allocate the liability amongst the partners, including Daugherty, but for the sake of conservatism, it is assumed that Daugherty would have to pay a ratable share.

[7] Assumes 50% of all adjustments and penalties in the V column as a hypothetical middle of the road resolution that sits between the current known settlement offers.

[8] Ex. 21 – HUNTON_000079; Ex. 26 – HUNTON_001120. Assumes 50% concession by the IRS on adjustment FP-01, 0% concession by the IRS on adjustment FP-02, 100% concession by the IRS on adjustment FP-03. The letter description of the FP-02 adjustment is less than crystal clear, but for purposes of this calculation, the maximum adjustment is applied.

[9] Ex. 15 – Form 4605-A; $166M of adjustment to HCMLP, plus statutory penalty

Case 25-03055-bwb Doc 101 Filed 04/13/26 Entered 04/13/26 11:09:34 Desc Main
Case 3:26-cv-02664-S Document 1-5 Filed 08/28/26 Page 371 of 421 PageID 1574

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S TRIAL BRIEF

Pursuant to the Order Approving Second Stipulated Scheduling Order [Docket No. 94], Defendant/Counter-Plaintiff Patrick Daugherty ("Daugherty") files his trial brief and would show the Court as follows[2]:

PRELIMINARY STATEMENT

1. As set forth below, and as the evidence will show at the hearing, Daugherty's Reserved Claim[3] should be allowed. The Compensation and Benefits Statement ("Compensation Statement") that Highland issued to Daugherty constitutes a separate, enforceable unilateral contract between the parties that cannot be properly estimated at this time due to numerous uncertainties. Finally, Highland materially breached the Books and Records provision in their Settlement Agreement because Highland failed to provide Daugherty with all books and records in its possession, custody and control that related to HERA and ERA.

I. The Court should allow Daugherty's Reserved Claim.

A. Legal standard for allowance.

1. The Court show allow Daugherty's Reserved Claim because it is an allowable contract claim that Highland cannot rebut. But even if Highland overcomes its burden and rebuts the prima facie case created by the filing of the claim, Daugherty can still prove the allowable nature of the Reserved Claim prove by a preponderance of the evidence. As the Fifth Circuit has

[2] Daugherty reserves the right to amend or supplement the arguments in his trial brief. Daugherty filed a Motion to Dismiss Highland's adversary Complaint [Docket No. 5], and Highland filed a Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 [Docket No. 10]. The Court denied the Motion to Dismiss and granted the Cross Motion. Daugherty filed an appeal therefrom, which remains pending. Nothing herein constitutes a waiver of that appeal.

[3] All capitalized terms herein shall have the same meaning ascribed to them in Highland's Adversary Complaint against Daugherty [Docket No. 1].

held when analyzing 11 U.S.C. § 502, "a party correctly filing a proof of claim is deemed to have established a prima facie case against the debtor's assets." *In re Fid. Holding Co., Ltd.,* 837 F.2d 696, 698 (5th Cir. 1988). Under Section 502(a) of the Code, a proof of claim filed pursuant to Section 501 "is deemed allowed, unless a party in interest…objections." 11 U.S.C. § 502(a).

2. Upon the filing of an objection, the burden shifts to the debtor as the objecting party. Once the objection is on file, the objecting party must "produce evidence tending to defeat the claim that is of a probative force equal to that of the creditor's proof of claim." *In re Simmons*, 765 F.2d 547, 552 (5th Cir. 1985). And if the objecting party does not produce sufficient evidence, "the claimant will prevail." *In re Fid. Holding Co., Ltd*., 837 F.2d at 698. It is, therefore, critical to appreciate that "mere allegations unsupported by evidence are insufficient to rebut the prima facie case." *Matter of TransAmerican Natural Gas Corp*., 978 F.2d 1409, 1416 (5th Cir. 1992). Only if the objecting party presents sufficient evidence to rebut the claimant's prima facie case does the ultimate burden shift back to the claimant.

3. When the ultimate burden rests with the claimant, the claimant must merely prove the merits of its claim by a preponderance of the evidence. *See In re Fid. Holding Co., Ltd*., 837 F.2d at 698. Moreover, when the burden rests with the claimant, the "basic federal rule in bankruptcy is that state law governs the substance of claims." *Raleigh v. Illinois Dept. of Revenue*, 530 U.S. 15, 120 S.Ct. 1951, 147 L.Ed.2d 13, 15 (2000). Here, as detailed below, Texas law applies to the Reserved Claim.

4. On December 23, 2020, Daugherty filed his claim as Proof of Claim No. 205 – the "Reserved Claim" as previously defined. The Reserved Claim superseded and amended Daugherty's prior claims filed as Proof of Claim Nos. 67 and 77. Daugherty's Reserved Claim established a prima facie case of allowance and validity, and it is Highland's burden to come

forward and rebut. Specifically, Highland must produce "evidence tending to defeat the claim that is of a probative force equal to that of the creditor's proof of claim." *In re Simmons*, 765 F.2d 547, 552 (5th Cir. 1985). If Highland cannot do that, Daugherty's claim stands. And if the Court does find that Highland has met its burden in rebutting the prima facie case, Daugherty can (and will) put forward substantial evidence at trial to prove his claim by a mere preponderance of the evidence. As detailed below, Daugherty's claims against Highland pursuant to the Compensation Statement and the Settlement Agreement are meritorious and the Court should, therefore, allow them.

B. The Compensation Statement created a unilateral contract under Texas law.

5. The Compensation Statement (Highland's Exhibit 13), when read in conjunction with the Amended Employment Agreement (Highland's Exhibit 11), created an enforceable unilateral contract between Daugherty and Highland. In Texas, a unilateral contract is "created by the promisor promising a benefit if the promisee performs. The contract becomes enforceable when the promisee performs." *Vanegas v. American Energy Services*, 302 S.W.3d 299, 302 (Tex. 2009) (citing *Plano Surgery Ctr. v. New You Weight Mgmt. Ctr.*, 265 S.W.3d 496, 503 (Tex. App.—Dallas 2008, no pet.)).

6. In the employment context, a unilateral contract is created when "an employer promises an employee certain benefits in exchange for the employee's performance, and the employee performs." *City of Hous. v. Williams*, 353 S.W.3d 128, 136 (Tex. 2011). For instance, in *Vanegas*, the supreme court held that a unilateral contract could be formed when an employer offered to share proceeds of a sale of the company with employees if the employees stayed employed until the sale occurred. 302 S.W.3d at 303. In that case, the supreme court held that "[w]hether the promise was illusory at the time it was made is irrelevant; what matters is whether

the promise became enforceable by the time of the breach." *Id.* (quoting 2 Joseph M. Perillo & Helen Hadjiyannakis Bender, *Corbin on Contracts* § 6.2 (1995)) ("[U]nilateral contract analysis is applicable to the employer's promise to pay a bonus or pension to an employee in case the latter continues to serve for a stated period.").

7. Section 61.015 of the Texas Labor Code governs the payment of bonus compensation in Texas. *See* Tex. Labor Code Ann. § 61.015. That statute provides that "[w]ages paid on commission and bonuses are due according to the terms of: (1) an agreement between the employee and employer; or (2) an applicable collective bargaining agreement." *Id.* Additionally, "[a]n employer shall pay wages paid on commission and bonuses to an employee in a timely manner as required for the payment of other wages under this chapter." *Id.*

8. It is well-established law in Texas that "instruments pertaining to the same transaction may be read together to ascertain the parties' intent, even if the parties executed the instruments at different times and the instruments do not expressly refer to each other." *Fort Worth Indep. Sch. Dist. v. City of Fort Worth*, 22 S.W.3d 831, 840 (Tex. 2000) (internal citations omitted; *see also Jim Walter Homes, Inc. v. Scheunemann*, 668 S.W.2d 324, 327 (Tex. 1984) (same); *Jones v. Kelley*, 614 S.W.2d 95, 98 (Tex. 1981) (same). "[A] court may determine, as a matter of law, that multiple documents comprise a written contract." *Id.* (citing *Jones*, 614 S.W.2d at 98; *Miles v. Martin*, 321 S.W.2d 62, 65 (Tex. 1959); *Braniff Inv. Co. v. Robertson*, 81 S.W.2d 45, 47 (Texas 1935)).

9. The supreme court has stated that together, the documents must define the "essential terms" of the contract, including "'the time of performance, the price to be paid, … [and] the service to be rendered.'" *City of Hous.*, 353 S.W.3d at 139-40 (citing *Kirby Lake Dev. Ltd. v. Clear Lake City Water Auth.*, 320 S.W.3d 829, 838 (Tex. 2010); *Liberto v. D.F. Stauffer Biscuit*

Co., 441 F.3d 318, 324 (5th Cir. 2006)). In the context of employment agreements, "typical essential terms include, among others, 'compensation, duties or responsibilities.'" *Id.* (citing *Martin v. Credit Prot. Ass'n Inc.*, 793 S.W.2d 667, 669 (Tex. 1990)). Courts applying Texas law must determine whether the referenced documents, read together, "demonstrate a manifestation of [the employer's] intention to be bound to provide [the referenced benefits.]" *Parvis-Khyavi v. Alcon Laboratories, Inc.*, 395 S.W.3d 376, 382 (Tex. App.-Dallas 2013, pet. denied) (citing *City of Hous.*, 353 S.W.3d at 138)).

10. Here, the applicable documents between Highland and Daugherty are the Amended Employment Agreement and the Compensation Statement. The Amended Employment Agreement provides, at Article III, subsection (a):

> The annual salary (the "**Base Salary**") payable to [Daugherty] during the term of this Agreement shall be an amount determined by the Company (in its sole discretion) and communicated in writing to [Daugherty], and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon [Daugherty's] performance and shall be determined by the Company in its sole discretion. In addition, the Company may from time to time award bonuses to [Daugherty] based on such criteria as the Company may establish in its discretion. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. [Daugherty] must be employed on the payment date(s) in order to be eligible for the bonus. The payment of salary and bonuses shall be subject to federal, state, and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of [Daugherty's] compensation does not constitute a guarantee of employment for any specified period of time.

Highland Ex. 11, p. 4, art. III.1(a) (emphasis in original). In the Amended Employment Agreement, Highland sets out specific conditions for Daugherty's eligibility for bonus compensation, and the services to be rendered by Daugherty. *See id.* at p. 3, art. II.1-2. Additionally, Article 3(a) of the Amended Employment Agreement states that, on an annual basis, Highland was to determine Daugherty's annual salary and bonus compensation for each year and

communicate the same "in writing" in the annual Compensation Statement. Thus, the Amended Employment Agreement, read alone, does not establish Highland's "intention to be bound to provide" bonus compensation to Daugherty. *Alcon Laboratories*, 395 S.W.3d at 382. However, when read in connection with the Compensation Statement, Highland's intent to guarantee Daugherty's compensation is plain.[4]

11. The Compensation Statement specifically stated that Daugherty would receive $1,475,816, labeled as a "2008 Tax Refund" but included as part of his "Earnings and Awards" for his service as an employee of Highland during the 2008 year. *See* Compensation Statement, p. 1. Base salary was specifically denoted, as were his "paid benefits" in a separate category. *Id.* Additionally, the Compensation Statement contained the following statement: "Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months." *Id.*

12. There is no question that the 2008 Tax Refund amount was included in the total of Daugherty's promised "Earnings and Awards" as part of his service to Highland in 2008. *See, e.g., id.* ("2008 Base Salary, as of 12/31/08," "2008 Deferred Compensation," and "2008 Other Awards.") There is no question that Daugherty performed his required services for Highland in 2008, nor that he continued to be an employee of Highland until 2011. The only question was whether the actual amount he received as a "refund" would "deviate materially" from the estimate based on the IRS review, at which point Highland promised to fairly indemnify him by adjusting his compensation.

---

[4] In Texas, when an employment agreement sets out an employee's eligibility for a discretionary bonus, courts look to additional documentation signaling an employer's promise or guarantee of a bonus in a "fixed, nondiscretionary amount." *See Shanklin v. Columbia Management Advisors, L.L.C.*, Civ. Act. No. H-07-2690, 2008 WL 4899631 at *12-*13 (S.D. Tex. Nov. 12, 2008) (contrasting the difference between an employer's guarantee of a bonus in a fixed amount and a bonus offered discretionarily without any evidence of a promise or consideration).

C. Highland cannot say it satisfied its obligations under the Compensation Statement.

13. Highland asserts it "satisfied any obligations long ago because Daugherty received a tax refund from the IRS." Joint Pretrial Order at ¶ 40. But this completely ignores the fact that Highland's own partnership filing is being audited and subject to adjustment, which means that Daugherty's personal tax return, and thus the amount of the refund, are subject to adjustment. In fact, Highland recognized the possibility that its partnership filing would be audited and was subject to adjustment. It told the profits interest partners that the refund could be "claw[ed] back . . . if the return if [sic] audited and the outcome is negative." Highland Ex. 39. Moreover, Highland agreed in the Compensation Statement to "fairly adjust" other compensation to Daugherty to cover any difference between the estimated and actual tax refund. Given that Highland's dispute with the IRS over the audit of the partnership filing is still ongoing, and thus Daugherty's refund is subject to "claw back,' and thus the actual refund may change, Highland cannot be said to have "satisfied" its obligations to Daugherty under the Compensation Statement.

D. The Employment Agreement is a red herring.

14. Highland next argues that if the Compensation Statement is an enforceable contract, Daugherty's Reserved Claim is barred by the Amended Employment Agreement. Joint Pretrial Order at ¶ 44. Specifically, Highland argues that because Article III.1(a) of the Amended Employment Agreement provides that "[t]he Executive must be employed on the payment date(s) in order to be eligible for the bonus[,]" Daugherty was no longer eligible for any bonus under the Amended Employment Agreement after the date he terminated his employment on October 31, 2011. *Id.* at ¶¶ 44-45. Not so.

15. Article III.1(a) of the Amended Employment Agreement provides that bonus compensation, "**unless specifically stated otherwise,**" would be paid in three equal installments

and is not earned or accrued until each payment date. *See* Highland Ex. 11, p. 4, art. III.1(a) (emphasis added). However, in this instance, Highland chose to specifically state otherwise. Highland chose not to pay Daugherty three equal installments of his regular bonus compensation, but instead **guaranteed** that he would receive at least $1,475,816, labeled as a "2008 Tax Refund" and which was "expected to be received in approximately 4 months." *See* Compensation Statement, p. 1. Indeed, Daugherty was employed by Highland when he received payment of the 2008 Tax Refund, thus fulfilling the requirement in Article III.1(a) that he "must be employed on the payment date(s) in order to be eligible for the bonus." Highland Ex. 11, p. 4, art. III.1(a).

16. However, Highland's obligations under the 2008 Compensation Statement did not end upon payment of the 2008 Tax Refund. As Highland acknowledged when it told the profits interest partners that the refund could be "claw[ed] back . . . if the return if [sic] audited and the outcome is negative", the 2008 Tax Refund was subject to considerable uncertainty. Highland, Ex. 39. Because of this uncertainty, Highland chose to guarantee the amount of compensation it promised to Daugherty by stating "[i]f actual refund deviates materially from estimate, other compensation will be fairly adjusted." Compensation Statement, p. 1.

17. Highland also argues that Daugherty declined to sign a separation and release form referenced in his employment agreement, and thus "forfeited any right he may have had under the Compensation Statement." Joint Pretrial Order at ¶ 47; *see also id.* at ¶ 46. But the evidence will show that Highland never presented the separation and release form attached to Daugherty's employment agreement as Exhibit A upon Daugherty's resignation. *See* Highland Ex. 6 at RFA No. 8.

18. Finally, Highland speciously claims that "the Parties never believed the Compensation Statement constituted an agreement that would survive Daugherty's termination

from Highland" because a separate separation agreement was presented that Daugherty refused to sign. Joint Pretrial Order at ¶ 48. What Highland omits is that the separation agreement presented to Daugherty was part of a "all or nothing" package of proposed agreements that Highland demanded Daugherty sign following his resignation. Daugherty refused to do so. And just because Daugherty refused to sign a document that contained the same effective indemnification agreement contained in the Compensation Statement does not mean that Daugherty and Highland believed the Compensation Statement obligations would not survive Daugherty's resignation.

II. Once the Court allows Daugherty's claims, the Court should not feel burdened to estimate, as the Court has significant equitable authority to leave Daugherty's claims as-is until the IRS concludes its audit.

19. Although estimation is routinely used by courts to provide closure to a bankruptcy case, it is not a requirement. Courts have recognized that 11 U.S.C. § 502(c) only creates an obligation to estimate if certain factors are present. Specifically, it is only when "fixing or liquidating the claim would 'unduly delay' the reorganization proceeding," that a court should estimate a claim. *In re Continental Airlines, Inc.*, 57 B.R. 842, 844 (Bankr. S.D. Tex. 1985). Highland refuses to acknowledge that there are several scenarios in which a court can (a) refrain from estimating and (b) allow a claim to be revisited upon the occurrence of a future event.

20. The court's conclusion in *In re Dow Corning* is instructive. *In re Dow Corning Corp.*, 211 B.R. 545 (Bankr. E.D. Mich. 1997). There, Dow Corning was involved in significant mass tort litigation. *Id.* at 549-50. After it filed for bankruptcy protection and the court became aware of the magnitude of the tort claims, the court explicitly declined to estimate the claims. *Id.* at 562. The court declined to estimate for several reasons: (a) the delay from liquidation would not be "undue", (b) estimation wasn't necessary for the plan of reorganization, (c) estimation would duplicate subsequent litigation proceedings. *Id.* at 562-66. Those same factors in the present case

weigh in favor of not estimating Daugherty's claim. The Court can (and should) rely on its equitable authority to limit the relief that Highland seeks.

21. Importantly, the Court's analysis of what constitutes "undue delay" is a balance of the burden of estimation against the benefits of case administration. It is a matter of equity and here, it would be entirely inequitable for the Court to estimate Daugherty's claim. On one hand, if the Court were to estimate Daugherty's claims and that estimated claim value was less than Daugherty's liability as a result of the IRS audit, Daugherty will be without recourse against Highland for money he is owed. As an individual taxpayer with hundreds of thousands, if not millions, of dollars on the line, that is substantially prejudicial to Daugherty. On the other hand, if the Court did not estimate Daugherty's claim and left it open until the IRS audit is complete, the burden on Highland would be minimal. As Highland itself stated, the resolution of "Daugherty's Reserved Claim" is one of only a few remaining items prior to dissolution. Docket No. 10 at p. 3. But Highland points to no burden in delaying its own dissolution. The present situation is distinct from a situation where a debtor is looking to quickly and efficiently exit a reorganization. There, Daugherty would appreciate the urgency in which that debtor sought to exit bankruptcy. That is decidedly not the case here.

22. The present situation is a result of Highland's own decision making. Only Highland and its Tax Matters Partner have insight into the IRS' audit and Highland's ongoing discussions with the IRS. But regardless of that insight, Highland chose to create a framework where it sought to dissolve prior to the IRS' final determination resulted in the present quagmire. Highland could have—quite easily—waited on the results of the IRS audit and then cleanly moved forward with adjudicating Daugherty's claim. Instead, Highland chose to seek rescission of the Settlement Agreement between it and Daugherty so it could file an adversary complaint and increase its

litigation pressure on Daugherty. No one—not the IRS, not Daugherty, not the Court—forced Highland to sue Daugherty. That was Highland's choice. The Court should heavily consider the fact that it was Highland's own actions that are the sole cause of this dilemma in which the parties find themselves.

23. In situations where neither the case law nor the code squarely addresses the facts at hand, the Court is well within its inherent, equitable powers to address unique situations in an equitable manner. As other bankruptcy courts in Texas have stated, "[Section 105 serves] to fill gaps Congress less unanswered so that the Rules and the Code operate consistent with their purposes." *In re IFS Financial Corp*., 417 B.R. 419, 448 (Bankr. S.D. Tex. 2009) (citing *Rodriguez v. Countrywide Home Loans, Inc. (In re Rodriguez)*, 369 B.R. 436, 460 (Bankr. S.D. Tex. 2008). Here, the Court has the absolute right to manage Highland's dissolution and the remaining claims how it sees fit. Daugherty asks the Court to refrain from estimating his allowed claim and instead, allow the IRS audit to run its course. Then, the parties will have the information they need to cleanly and efficiently conclude Highland's protracted bankruptcy.

III. The Court should remedy Highland's breach of the Settlement Agreement by requiring, through specific performance, Highland to transfer the totality of its interests in HERA and ERA to Daugherty.

A. Highland breached the parties' Settlement Agreement by failing to fully transfer its "Interests" in HERA and ERA, including all of their books and records, to Daugherty.

24. The parties' Settlement Agreement (Daugherty Exhibit PD-3, Main Bankr. (19-34054) Doc. No. 3089-1) provides that Delaware law governs its interpretation. PD-3 at § 22. Delaware follows the objective theory of contracts: a contract's construction should be that which would be understood by an objective, reasonable third party, and courts enforce the plain, ordinary meaning of clear and unambiguous language. *Vill. Practice Mgmt. Co. LLC v. West*, 342 A.3d 295,

314 (Del. 2025); *Gunderson v. Trade Desk, Inc.*, 326 A.3d 1264, 1273, 1280 (Del. Ch. 2024), *as corrected* (Nov. 8, 2024); *Tatum v. Fairstead Affordable LLC*, 347 A.3d 1221, 1252 (Del. Ch. 2025). Delaware courts read the agreement as a whole, give effect to all its provisions, and give priority to the parties' intentions as reflected in the four corners of the agreement. *Origis USA LLC v. Great Am. Ins. Co.*, 345 A.3d 936, 952 (Del. 2025); *Johnson & Johnson Fortis Advisors LLC*, No. 490, 2024, 2026 WL 89452, at *25 (Del. Jan. 12, 2026); *Parke Bancorp Inc. v. 659 Chestnut LLC*, 217 A.3d 701, 715 n. 52 (Del. 2019).

25. Highland's cramped reading of Section 8—which, as described below, is the section mandating that Highland turnover certain interests of HERA and ERA to Daugherty—ignores the Agreement's plain language and evident purpose. The Agreement required Highland to "transfer its interests in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims" belonging to those entities against third parties. PD-3 at § 8. Highland's "interests" is a broad term encompassing all ownership rights, property, data, documents, and records relating to HERA and ERA. The Agreement confirms this by specifying that "[s]uch transfer will *include* the HERA and ERA books and records (spreadsheet) maintained on [Highland's] system"—expressly identifying books and records as one component of Highland's "interests," not the entirety. *Id.* (emphasis added).

26. First, the operative term is Highland's "interests" — the full scope of what Highland possessed relating to HERA and ERA. The word "include" is critical: it signals that books and records are one component of the broader "interests" being transferred, not the only thing being transferred. While Highland may argue "(spreadsheet)" limits this to a single document or subset of documents, "books and records" is a comprehensive term of art, with "(spreadsheet)" identifying merely one format. The inclusive "include" contrasts with the following sentences

where the drafters expressly limited the transfer using "without." *Id.* Had the parties intended to limit the transfer to a single spreadsheet, they would have used "consist of" or "limited to"—not "include," a term of expansion.

27. Second, the stated purpose of "to facilitate the recovery of… potential claims" requires a broad interpretation of Highland's "interests." Daugherty needs complete access to all HERA and ERA materials in Highland's possession to meaningfully pursue those claims. A narrow reading would frustrate the express purpose the parties articulated. Because Daugherty was to receive Highland's full "interests" in HERA and ERA—including all "potential claims"—he must receive everything Highland possessed relating to those entities. To hold otherwise would render the transfer illusory and largely meaningless.

28. The record confirms Highland's breach. Daugherty requested these materials so HERA and ERA could pursue potential claims against bad actors not released under the Agreement. Main Bankr. Case No. 19-34054, Doc. No. 4449 at Ex. B, Decl. of P. Daugherty at ¶ 2. Highland refused. *Id.* HERA has since sued James Dondero, Mark Okada, Scott Ellington, and others, relying on records that Abrams & Bayliss—not Highland—produced. *See id.* at ¶ 3; Ex. B-1; Ex. B-2. These documents plainly fall within Highland's "interests," yet Highland refuses to produce them.

29. Highland has thus breached its obligation to transfer its "interests" in HERA and ERA, including the full scope of their books and records. Its refusal to produce all materials relating to those entities—while they pursue the very claims the Agreement was designed to facilitate—cannot be squared with the Agreement's plain language, its purpose, or Delaware law. The Court should give "interests" and "books and records" the broad reading the terms deserve. Having established Highland's breach, the question becomes remedy.

B. Daugherty is entitled to specific performance requiring Highland to produce the entirety of HERA and ERA's books and records.

30. Specific performance is "the decisively preferable remedy" when a party breaches a contract involving unique subject matter and damages cannot be reasonably calculated. *In re IBP, Inc. S'holders Litig.*, 789 A.2d 14, 22 (Del. Ch. 2001). To obtain this remedy, a plaintiff must prove by clear and convincing evidence: (1) a valid contract exists, (2) the plaintiff is ready, willing and able to perform, (3) a legal remedy would be inadequate, and (4) the balance of equities tips in favor of the party seeking specific performance. *Am. Healthcare Admin. Servs., Inc. v. Aizen*, 285 A.3d 461, 495 (Del. Ch. 2022). Here, the validity of the Settlement Agreement is undisputed. Highland does not contest Daugherty's full performance. *See* Docket No. 100, Joint Pretrial Order. Highland's refusal to produce the books and records of HERA and ERA thus squarely presents the question of remedy—and equity demands specific performance.

31. Delaware courts "read a contract as a whole and [] give each provision and term effect, so as not to render any part of the contract mere surplusage." *Osborn ex rel. Osborn v. Kemp*, 991 A.2d 1153, 1159 (Del. 2010). Section 8 of the Settlement Agreement exists for one express purpose: "to facilitate the recovery of potential claims." Highland's position—that it may retain HERA and ERA's books and records while claiming to have transferred the relevant interests—eviscerates that purpose entirely. One cannot "facilitate the recovery of potential claims" without permitting access to the records necessary to identify, investigate, and prosecute those claims. Highland's interpretation is precisely the kind of "absurd" reading that "no reasonable person would have accepted when entering the contract." *Id.* at 1160.

32. In *Lee Builders, Inc. v. Wells*, the Court of Chancery granted specific performance (despite arguments about contractual uncertainty), reasoning that "it is obvious that what was intended by the parties was to furnish defendants with such improvements as were necessary and

suitable by reason of the contemplated…" purpose of the agreement. *Lee Builders, Inc. v. Wells*, 92 A.2d 710, 715 (Del. Ch. 1952). The same principle applies here. Denying specific performance would defeat the very purpose for which the parties agreed to when drafting Section 8.

33. The books and records at issue are not fungible assets that can be replaced or monetized. They are the sole repository of information about HERA and ERA's operations, transactions, and potential claims against bad actors. Delaware courts recognize that specific performance is particularly appropriate where the subject matter is unique. *Osborn*, 991 A.2d at 1161-62; *see also IBP*, 789 A.2d at 82-83 (granting specific performance where merger represented "a truly unique opportunity that cannot be adequately monetized").

34. Any damages calculation would necessarily be speculative. In *IBP*, the court granted specific performance in part because calculating damages would "lack any pretense to precision" and would require the parties to "haggle over huge valuation questions." 789 A.2d at 83. Here, the speculative nature of damages is even more pronounced. The HERA litigation is in its infancy (motion to dismiss stage) with no outcome in sight. Specific performance avoids this inequity by "entirely eliminat[ing] the need for a speculative determination of damages." *Id.*

35. The balance of equities tips decidedly in Daugherty's favor. First, Daugherty comes to this Court with clean hands, having fully performed his obligations under the Settlement Agreement. *See Osborn*, 991 A.2d at 1162. Second, the relief sought is discrete and readily enforceable: Highland possesses the books and records, and the Court need only order their production. The Court need not supervise compliance; there is no complex compliance process nor is there a conflict with other proceedings. *26 Capital Acquisition Corp. v. Tiger Resort Asia Ltd.*, 309 A.3d 434, 466-72 (Del. Ch. 2023) (denying specific performance where enforcement would be complex and foreign court orders created conflict). Third, Highland can demonstrate no

hardship from being required to honor its contractual commitment—mere inconvenience has never constituted grounds for denying specific performance. *See Osborn*, 991 A.2d at 1162. Finally, the purpose of the Settlement Agreement—to allow Daugherty to pursue claims on behalf of HERA and ERA—can only be achieved through specific performance.

36. Specific performance is the only adequate remedy. Daugherty is entitled to an order compelling Highland to produce the entirety of HERA and ERA's books and records.

C. The statute of limitations does not bar Daugherty's books and records claim.

37. As discussed below, Federal courts located in Texas apply Texas' four-year statute of limitations to breach of contract claims. The Court entered the order approving the parties' Settlement Agreement[5] in March 2022, and Daugherty filed his breach of contract claim on October 3, 2025 — less than four years later. Even more, Highland and Daugherty executed the Settlement Agreement on November 22, 2021—less than four years before.[6] Accordingly, by any measure, Daugherty's October 2025 breach of contract claim is timely.

38. Conversely, Highland's allegation that a Delaware choice of law provision in the parties' Settlement Agreement mandates a three-year statute of limitations is wrong. In adversary proceedings, bankruptcy courts engage in the same choice of law analysis as a federal district court. *See In re Soporex, Inc.*, 446 B.R. 750, 760–61 (Bankr. N.D. Tex. 2011); *In re Vantage Benefits Admins. Inc.*, No. 18-31351-SGJ-7, 2024 WL 3842796, at *17 (Bankr. N.D. Tex. Aug. 14, 2024). A federal district court "sitting in diversity must apply its forum state's conflict of laws rules to perform a conflict of laws analysis." *Cypress/Spanish Ft. I, L.P. v. Prof. Serv. Indus., Inc.*, 814 F.

[5] Daugherty Ex. PD-3.

[6] *Id.* The Settlement Agreement did not become effective, however, until March 8, 2022, when this Court approved it. Daugherty Ex. PD-4.

Supp. 2d 698, 708 (N.D. Tex. 2011); *see also Vantage Benefits*, 2024 WL 3842796, at *17 (applying same rule in adversary proceeding context to state-law claims).

39. Texas courts apply (a) the substantive law of the contractually chosen state and (b)Texas procedural law to procedural matters. *See Cypress/Spanish*, 814 F. Supp. 2d at 708. Texas considers statutes of limitation procedural, not substantive. *See id.*; *see also Baker Hughes, Inc. v. Keco R. & D., Inc.*, 12 S.W.3d 1, 4 (Tex. 1999); *Hunt Oil Co. v. Live Oak Energy, Inc.*, 313 S.W.3d 384, 387 (Tex. App.—Dallas 2009). Consequently, Texas federal courts evaluating the applicable statute of limitations when faced with a foreign choice of law provision in a contract consistently apply the four-year Texas statute of limitations. *See Cypress/Spanish*, 814 F. Supp. 2d at 709 (concluding Texas statute of limitations applies despite Alabama choice of law provision); *Hunter v. Berkshire Hathaway, Inc.*, No. 4:14-CV-663-Y, 2017 WL 11679602, at *4 (N.D. Tex. May 31, 2017) (concluding Texas statute of limitation applies despite Delaware choice of law provision); *Albritton v. Acclarent, Inc.*, No. 3:16-cv-03340-M, 2017 WL 6628122, at *6 (N.D. Tex. Dec. 27, 2017) (concluding Texas statute of limitations applies despite California choice of law provision); *see also Soporex*, 446 B.R. at 761–62 (concluding Texas statute of limitations applies to Trustee's tort claims).

40. Regardless of the Settlement Agreement's choice of law provision, Texas' four-year statute of limitations applies to Daugherty's breach of contract claim because it is a procedural matter under Texas choice of law principles. Daugherty's October 2025 claim falls less than four years from the date of the Settlement Agreement's execution on November 2021, and less than four years from the Court's March 2022 order approving the Settlement Agreement. Daugherty's claim is not barred.

41. Even if Delaware's three-year statute of limitations applied (it does not), Daugherty's claim would still be timely. In Delaware, a cause of action accrues when the contract is broken. *Allstate Ins. Co. v. Spinelli*, 443 A.2d 1286, 1292 (Del. 1982); *Lehman Bros. Holdings Inc. v. Kee*, 268 A.3d 178, 185 (Del. 2021). At the earliest, Highland's breach accrued on October 19, 2022—the date Highland told Daugherty it had completed its performance (it had not). Highland's Ex. 3 ("Upon transmission of the information described above, [Highland] will have satisfied all of its obligations under the settlement agreement, and our involvement in HERA/ERA (your entities) will be complete."). Daugherty filed his breach of contract claim less than three years later, on October 3, 2025.

42. Finally, to resolve any lingering doubts regarding the inapplicability of limitations, Texas Civil Practice & Remedies Code § 16.069 expressly states "[i]f a counterclaim or cross claim arises out of the same transaction or occurrence that is the basis of an action, a party to the action may file the counterclaim or cross claim even though as a separate action it would be barred by limitation on the date the party's answer is required." Daugherty did so here by filing his counterclaim on the date his answer was due. His counterclaim arises from the same Settlement Agreement that is central to Highland's claims. Hence, by any measure, Daugherty's claim is timely.

CONCLUSION

43. Daugherty's claims in this action are supported by law and the evidentiary record. Daugherty asks the Court to find as follows: (1) Daugherty's Compensation Statement with Highland created a unilateral contract between the two, with obligations flowing from Highland to Daugherty; (2) Daugherty possesses an allowable claim against Highland, (3) the Court cannot estimate Daugherty's claim until the IRS concludes its audit of Highland, as this is the most

equitable result given all circumstances, and (4) Daugherty's claim for books and records against Highland is meritorious, and Highland should turn over all HERA and ERA books, records, information, and material in its possession, without reservation.

Dated: April 13, 2026.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 13th day of April 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (BWO)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S AMENDED WITNESS AND EXHIBIT LIST

Defendant and Counter-Plaintiff Patrick Daugherty files this Amended Witness and Exhibit List for Trial scheduled on April 17, 2026, at 9:00 a.m.

Witnesses

1. Patrick Daugherty
2. James Seery
3. T.J. Liles-Tims
4. Any witnesses called or designated by any other party;
5. Any witnesses necessary for impeachment, depending on the witnesses and evidence presented by other parties; and
6. Any witnesses necessary for rebuttal, depending on the witnesses and evidence presented by the parties.

Daugherty reserves the right to cross-examine any witness called by any other party.

Exhibits

Daugherty designates the following exhibits:

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-1	Complaint for (1) Disallowance of Claim No. 205 In Its Entirety, (2) Estimation of Claim No. 205 For Allowance Purposes, Or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty in Adversary Proceeding No. 25-03055-sgj, *Highland Capital Management, L.P. v. Patrick Hagaman Daugherty* (Docket No. 1)	
PD-2	Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith (Main Case Docket No. 3088 in Case 19-34054-sgj)	
PD-3	Declaration of John A. Morris in Support of the Reorganized Debtor's Motion for Entry of An Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith (Main Case Docket No. 3089 in Case 19-34054-sgj)	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-4	Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith (Doc. No. 3298 in Case 19-34054-sgj)	
PD-5	Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 (Docket No. 10)	
PD-6	Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 (Main Case Docket No. 1281 in Case 19-34054-sgj)	
PD-7	Transcript Regarding Hearing Held 11/17/2020 Regarding Motion for Temporary Allowance of Claim (Main Case Docket No. 1426 in Case 19-34054-sgj)	
PD-8	Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)	
PD-9	Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified) and (II) Granting Related Relief	
PD-10	Claimant Trust Agreement (Main Case Docket No. 1811-2 in Case 19-34054-sgj)	
PD-11	(PDADV_004266)	
PD-12	(DAUGHERTY ROGS 001407735)	
PD-13	(DAUGHERTY ROGS 001407743)	
PD-14	(PDADV_010520)	
PD-15	(PDADV_000019)	
PD-16	(DAUGHERTY ROGS 0003740)	
PD-17	(HUNTON 001105)	
PD-18	(HUNTON 00004)	
PD-19	(HUNTON 001131)	
PD-20	(HUNTON 001163)	
PD-21	(HUNTON 001170)	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-21A	(PDADV 010244)	
PD-22	(PDADV 010262)	
PD-23	(PDADV_010268)	
PD-24	(PDADV_010346)	
PD-25	(PDADV_011013)	
PD-26	2008 Daugherty K-1	
PD-27	(DAUGHERTY ROGS 0003729)	
PD-28	(DAUGHERTY ROGS 0003730)	
PD-29	(DAUGHERTY ROGS 0003734)	
PD-30	(PDADV_004224)	
PD-31	(PDADV_004687)	
PD-32	(PDADV_004856)	
PD-33	(DAUGHERTY ROGS 00016700)	
PD-34	(DAUGHERTY ROGS 00022527)	
PD-35	Email from J. Morris to M. Bobo dated May 24, 2024	
PD-36	November 17, 2020 Main Bankruptcy Hearing Transcript	
PD-37	June 25, 2025 Main Bankruptcy Hearing Transcript	
PD-38	September 4, 2025 Main Bankruptcy Hearing Transcript	
PD-39	March 1, 2022 Main Bankruptcy Hearing Transcript	
PD-40	(PDADV_004971)	
PD-41	(PDADV_011022)	
PD-42	(PDADV_018160)	
PD-43	(PDADV_018162)	
PD-44	(PDADV_018178)	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-45	(PDADV_018197)	
PD-46	(PDADV_004808)	
PD-47	(PDADV_018517)	
PD-48	(PDADV_018518)	
PD-49	(PDADV_018522)	
PD-50	(PDADV_018520)	
PD-51	(PDADV_018531)	
PD-52	(PDADV_018521)	
PD-53	(PDADV_018441)	
PD-54	Highland's Interrogatory Responses in this Adversary Proceeding	
PD-55	(PDADV_018431)	
PD-56	(PDADV_008926)	
PD-57	(PDADV_010052)	
PD-58	(Daugherty ROGs00003060)	
PD-59	(Daugherty ROGs00003294)	
PD-60	(Daugherty ROGs00003634)	
PD-61	(Daugherty ROGs00002069)	
PD-62	(Daugherty ROGs00001255)	
PD-63	(Daugherty ROGs00001109)	
PD-64	(Daugherty ROGs00002753)	
PD-65	(Daugherty ROGs00002009)	
PD-66	(Daugherty ROGs00002162)	
PD-67	(Daugherty ROGs00001282)	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-68	(Daugherty ROGs00003659)	
PD-69	(Daugherty ROGs00001302)	
PD-70	(Daugherty ROGs00001578)	
PD-71	(Daugherty ROGs00002893)	
PD-72	(Daugherty ROGs00001257)	
PD-73	(Daugherty ROGs00002041)	
PD-74	(Daugherty ROGs00003352)	
PD-75	(Daugherty ROGs00001054)	
PD-76	(Daugherty ROGs00000714)	
PD-77	(Daugherty ROGs00001830)	
PD-78	Reserved.	
PD-79	2021.12.17 – Email w/ J. Seery & Sidley Counsel (JPS/Ell-000865)	
PD-80	2021.10.15 - Doc. 1 (Adv. Proc. 21-03076-sgj) – Highland's Complaint	
PD-81	2022.05.19 - Doc. 158 (Adv. Proc. 21-03076-sgj) - Amended Highland's Complaint and Objection to Claims	
PD-82	TJ Liles Expert Report	
PD-83	2021.07.13 - J. Seery Email (JPS_ELL-011979)	
PD-84	2021.10.01 – P. Daugherty Email (JPS_ELL-008163)	
PD-85	2021.10.01 – P. Daugherty Email (JPS_ELL-012313)	
PD-86	2021.07.13 – J. Seery Email (JPS_ELL-013203)	
PD-87	2022.02.16 - Doc. 3242 (Case 19-34054) Ellington's Objection to Settlement	
PD-88	2022.01.11 – Doc. 3265-1 (Case 19-34054) Ellington's Petition, App for TRO, TI and Permanent Injunction	
PD-89	2022.01.05 - Doc. 4266-20 (Case No. 19-34054) P. Daugherty Email to M. Kirschner	

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-90	2023.09.13 - Doc 3910 (19-34054) - Highland's Motion to Show Cause	
PD-91	2023.11.10 - Doc 3969 (19-34054) - Highland's Reply ISO Motion to Show Cause	
PD-92	2023.12.12 - Doc 3991 (19-34054) - Order Dismissing Show Cause due to Consensual Resolution	
PD-93	2022.08.08 - UBS PowerPoint in Support of August 8, 2022 Hearing (Adv. Proc. No. 21-03020-sgj, Doc. 169)	
PD-94	Tolling Agreement Extending Claim Objection Deadline (Main Case Docket No. 4255-60 in Case 19-34054-sgj)	
PD-	Any document entered or filed in the Debtor's chapter 11 bankruptcy case, including any exhibits thereto	
PD-	Any exhibits identified by or offered by any other party at the hearing	
PD-	Any exhibits offered for impeachment and/or rebuttal purposes	

Daugherty reserves the right to supplement or amend this Amended Witness and Exhibit List any time prior to the trial. This Amended Witness and Exhibit List is not intended to limit Daugherty at the hearing or to imply that Daugherty may not seek introduction of evidence that is not on this list. Daugherty reserves the right to use any of the exhibits designated by any other party in this case

Dated: April 14, 2026.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 14th day of April 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100

Counsel for Highland Capital Management, L.P.

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S AMENDED WITNESS AND EXHIBIT LIST WITH RESPECT TO TRIAL TO BE HELD ON APRIL 17, 2026

Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above-captioned chapter 11 case (the "Bankruptcy Case") and plaintiff/counter-defendant in the above-captioned adversary proceeding (the "Adversary Proceeding"), by and through its undersigned counsel, submits the following amended witness and exhibit list with respect to (a) its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1], and (b) *Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Docket No. 1] and Original Counterclaim* [Docket No. 39], which the Court has set for trial at 9:00 a.m. (Central Time) on April 17, 2026 (the "Trial") in the Adversary Proceeding.

A. Witnesses:

1. James P. Seery, Jr.;
2. David Klos;
3. Patrick Daugherty;
4. Trevor Jason Liles-Tims;
5. Any witness identified by or called by any other party; and
6. Any witness necessary for rebuttal.

B. Amended Exhibits:[2]

Number	Exhibit	Offered	Admitted
1.	*Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Doc. No. 1] and Original Counterclaim* [Daugherty Deposition Exhibit H-1]		
2.	Email from John A. Morris dated May 5, 2022 [Daugherty Deposition Exhibit H-2]		
3.	Email from James Seery dated October 19, 2022 [Daugherty Deposition Exhibit H-3]		
4.	Email from John A. Morris dated May 24, 2024 [Daugherty Deposition Exhibit H-4]		
5.	Settlement Agreement dated November 22, 2021 [Daugherty Deposition Exhibit H-5]		
6.	*Patrick Daugherty's Amended Answers to Highland Capital Management, L.P.'s Requests for Admission* dated December 12, 2025 [Daugherty Deposition Exhibit H-6]		
7.	*Patrick Daugherty's Amended Answers to Highland Capital Management, L.P.'s Interrogatories* dated December 12, 2025 [Daugherty Deposition Exhibit H-7]		
8.	Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated February 24, 2004 [Daugherty Deposition Exhibit H-8]		
9.	First Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated April 15, 2006 [Daugherty Deposition Exhibit H-9]		
10.	Second Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated April 15, 2007 [Daugherty Deposition Exhibit H-10]		

[2] The amendments to the original exhibit list, filed at Docket No. 97, include the additions in bold font below.

Number	Exhibit	Offered	Admitted
11.	Amended Employment Agreement (Patrick Daugherty) dated December 31, 2004 [Daugherty Deposition Exhibit H-11]		
12.	Daugherty resignation letter dated September 28, 2011 [Daugherty Deposition Exhibit H-12]		
13.	Patrick Daugherty Comprehensive Compensation and Benefits Statement dated February 27, 2009 [Daugherty Deposition Exhibit H-13]		
14.	Schedule K-1 Form 1065 for Calendar year 2008 for Patrick Daugherty [Daugherty Deposition Exhibit H-14]		
15.	Highland Capital Management Form 4605-A for Period Ending December 31, 2008 [Daugherty Deposition Exhibit H-15]		
16.	Letter from Brian Collins to Patrick Daugherty dated February 3, 2018 [Daugherty Deposition Exhibit H-16]		
17.	Form 886-Z for Patrick Daugherty for Taxable Year Ended December 31, 2008 [Daugherty Deposition Exhibit H-17]		
18.	Form 870-PT (Patrick Daugherty) for Tax Years Ended December 31, 2008 [Daugherty Deposition Exhibit H-18]		
19.	Email From Brian Collins dated July 3, 2018 [Daugherty Deposition Exhibit H-19]		
20.	Email From Brian Collins dated December 9, 2019 [Daugherty Deposition Exhibit H-20]		
21.	May 31, 2024 letter from Hunton to IRS Appeals [HUNTON_000079]		
22.	February 28, 2025 letter from Hunton to IRS Appeals [HUNTON_001105]		
23.	Form 886-A (Explanation of Items) Exhibit FP-01 [HUNTON_001131]		
24.	Form 886-A (Explanation of Items) Exhibit FP-02 [HUNTON_001163]		

Number	Exhibit	Offered	Admitted
25.	Form 886-A (Explanation of Items) Exhibit FP-03 [HUNTON_001170]		
26.	May 2024 email from IRS to Hunton [HUNTON_001120]		
27.	June 2024 email from IRS to Hunton [HUNTON_000076]		
28.	TMP 60-day letter [HUNTON_001124]		
29.	Statutory Internal Revenue Code Guidance Rev. Ruling 2020-28		
30.	Statutory Internal Revenue Code Guidance IRC section 6662 – Imposition of penalties		
31.	Statutory Internal Revenue Code Guidance IRC section 6601 – Interest on underpayment		
32.	Statutory Internal Revenue Code Guidance IRC section 6621 – Determination of interest rate		
33.	Statutory Internal Revenue Code Guidance IRC section 6622 – Interest compounded daily		
34.	Statutory Internal Revenue Code Guidance IRC section 6651 – Failure to pay tax		
35.	2008 Form 1040 (US Individual Income Tax Return) Pat and Kimberly Daugherty [PDADV_010268]		
36.	2008 Form 1045 (Application for Tentative Refund) Pat and Kimberly Daugherty [PDADV_010262]		
37.	Various, including Draft 2008 HCMLP Schedule K-1 to Pat Daugherty [PDADV_010244]		
38.	Email chain from September 2011 between Daugherty and Dondero [PDADV_004224]		
39.	Powerpoint slides to partners [PDADV_000002]		

Number	Exhibit	Offered	Admitted
40.	Dondero to Daugherty email Oct 2011 with separation agreement attached [PDADV_018494]		
41.	Separation agreement attached to Dondero to Daugherty email – Oct 2011 [PDADV_018476]		
42.	Email from Daugherty to Collins February 13, 2018 [PDADV_004796]		
43.	July 14, 2014 Final Judgment		
44.	Copy of Jury Verdict (Feb 2014)		
45.	Daugherty's Original Answer, Counterclaim and Third-Party Petition (May 2012)		
46.	Order on motion to partially vacate final judgment		
47.	Draft TL QA email [DAUGHERTY ROGS01403110]		
48.	Letter Agreement re Partnership Interest dated December 31, 2004 [DAUGHERTY ROGS01404488]		
49.	Claimant Trust Agreement dated August 11, 2021		
50.	Email Highland: Daugherty Settlement (RCP Track Record) [DAUGHERTY ROGS00016698]		
51.	10/24/22 email from Romey (Fwd. Daugherty Settlement Agreement Follow-Up)		
52.	4/1/22 email from JAM (Fwd. HERA and ERA Transfer Documents (execution versions))		
53.	Gray Reed letter Jan 2024 [PDADV_008361]		
54.	Morris email to York Mar 2024 [PDADV_008363]		

Number	Exhibit	Offered	Admitted
55.	Emails between Daugherty and Seery Oct 2022 [PDADV_010229]		
56.	IRS notice April 2018 [PDADV_010999] - CONFIDENTIAL		
57.	Deposition Transcript T.J. Liles-Tims March 23, 2026		
58.	Weaver.com – T.J. Liles-Tims Profile		
59.	Expert Report of T.J. Liles-Tims dated February 13, 2026		
60.	Email from J. Dondero to P. Daugherty dated September 27, 2011 [PDADV_004224]		
61.	Protest letter July 2018 [HUNTON_001182]		
62.	HR spreadsheet [DAUGHERTY ROGS01403106]		
63.	Email from J. Seery dated October 24, 2022 [PDADV_018426]		
64.	**Internal Revenue Service Letter dated March 3, 2010 [DAUGHERTY ROGS00640534]**		
65.	**Highland Demonstrative Exhibit: Estimate of Daugherty's Reserve Claim [Highland D-1]**		
66.	Any document entered or filed in Highland Capital Management, L.P.'s chapter 11 Bankruptcy Case or any associated adversary proceeding, including any exhibits thereto		
67.	All exhibits necessary for impeachment and/or rebuttal purposes		
68.	All exhibits identified by or offered by any other party at the Trial		

Dated: April 14, 2026

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on April 14, 2026, a true and correct copy of the foregoing *Amended Witness and Exhibit List* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

IN THE UNITED STATES DISTRICT CORT
FOR THE NORTHERN DISTRICT OF TEXAS,
DALLAS DIVISION

In re:	§	Chapter 11
Highland Capital	§	Case No. 19-34054-sgj11
Management, L.P.,	§	Adversary No. 25-03055-BWO
	§	
Reorganized Debtor	§	
	§	
Patrick Daugherty,	§	
	§	
Appellant,	§	
	§	
v.	§	Civil Action No. 3:25-CV-2584-E
	§	
Highland Capital	§	
Management, L.P. et al.,	§	
	§	
Appellees.	§	

INDEX TO SEALED EXHIBITS

Docket Number (Case No. 25-03055)	Description
105-17	Appellant's Sealed Exhibit 17
105-18	Appellant's Sealed Exhibit 18
105-19	Appellant's Sealed Exhibit 19
105-20	Appellant's Sealed Exhibit 20
105-21	Appellant's Sealed Exhibit 21
105-22	Appellant's Sealed Exhibit 22
105-23	Appellant's Sealed Exhibit 23
105-24	Appellant's Sealed Exhibit 24
105-25	Appellant's Sealed Exhibit 25
105-26	Appellant's Sealed Exhibit 26
105-21a	Appellant's Sealed Exhibit 21a
105-29	Appellant's Sealed Exhibit 29
105-60	Appellant's Sealed Exhibit 60
105-61	Appellant's Sealed Exhibit 61

105-62	Appellant's Sealed Exhibit 62
105-64	Appellant's Sealed Exhibit 64
105-65	Appellant's Sealed Exhibit 65
105-66	Appellant's Sealed Exhibit 66
105-67	Appellant's Sealed Exhibit 67
105-69	Appellant's Sealed Exhibit 69
105-72	Appellant's Sealed Exhibit 72
105-73	Appellant's Sealed Exhibit 73
105-74	Appellant's Sealed Exhibit 74
105-75	Appellant's Sealed Exhibit 75
105-76	Appellant's Sealed Exhibit 76
105-77	Appellant's Sealed Exhibit 77
105-83	Appellant's Sealed Exhibit 83
105-84	Appellant's Sealed Exhibit 84
105-85	Appellant's Sealed Exhibit 85

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717)
(*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397)
(*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992)
(*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569)
(*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

GRAY REED
Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff/Counter-Defendant,	§	
v.	§	Adversary No. 25-03055-bwo
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The mailing address for Highland is 6333 E. Mockingbird Lane, Suite 147 #5045, Dallas, TX 75214.

PLAINTIFF HIGHLAND CAPITAL MANAGEMENT, L.P. AND DEFENDANT PATRICK HAGAMAN DAUGHERTY'S JOINT MOTION FOR LEAVE TO FILE CERTAIN EXHIBITS UNDER SEAL

Highland Capital Management, L.P. ("Highland") and Patrick Hagaman Daugherty ("Daugherty") (together the "Parties"), in support of this joint motion (the "Motion") for leave of the Court to file certain exhibits from *Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026* ("Highland's Witness and Exhibit List") and *Daugherty's Witness and Exhibit List for Hearing Set for April 17, 2026* ("Daugherty's Witness and Exhibit List"), including supplements and amendments thereto, under seal, respectfully states the following:

Relief Requested

1. By this Motion, the Parties seek entry of an order from this Court, substantially in the form attached hereto as **Exhibit A** (the "Order") (a) authorizing Highland to file under seal Highland's exhibits 14, 21-28, 35-37, 57, 61, 62 ("Highland's Sealed Exhibits") from Highland's Witness and Exhibit List and Daugherty to file under seal exhibits 17-26, 21a, 29, 60-62, 64-67, 69, 72-77 and 83-85 ("Daugherty's Sealed Exhibits," and together with Highland's Sealed Exhibits, the "Sealed Exhibits") from Daugherty's Witness and Exhibit List because these Sealed Exhibits discuss information designated as confidential by agreed protective orders entered in this matter (Docket Nos. 67 and 77) (the "Protective Orders"); and (b) granting related relief. The Parties also request that any and all testimony and documentary evidence disclosing designated confidential information at any hearing discussing the Sealed Exhibits be sealed at such hearing.

2. The Parties have exchanged copies of their exhibits, agree that the above-listed Sealed Exhibits should be sealed, and will produce copies to other persons upon further order of the Court or upon agreement of the Parties.

Jurisdiction and Venue

3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b).

4. Venue is proper pursuant to 28 U.S.C. § 1409.

5. The bases for the relief requested herein are sections 105(a) and 107 of title 11 of the United States Code (the "Bankruptcy Code"), rule 9018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rule 9077-1 of the Bankruptcy Local Rules for the Northern District of Texas.

Basis For Relief

6. Section 107(b)-(c) of the Bankruptcy Code, in relevant part, provides courts with the power to issue orders that protect entities and individuals from potential harm that may result from the disclosure of certain confidential information:

> (b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—
>
> (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information . . . .
>
> (c)(1) The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual's property:
>
> (A) Any means of identification (as defined in section 1028(d) of the title 18) contained in a paper filed, or to be filed, in a case under this title . . . .

11 U.S.C. §§ 107(b)(1), (c)(1)(A); *see also* Fed. R. Bankr. P. 9018.

7. Although courts recognize a public right of access to judicial records and documents, this right is not absolute. *See Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 598 (1978); *Test Masters Educ. Servs., Inc. v. Robin Singh Educ. Servs., Inc.*, 799 F.3d 437, 454 (5th Cir. 2015).

"Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes." *Nixon*, 435 U.S. at 598.

8. Here, certain of the exhibits—those identified as Highland and Daugherty's Sealed Exhibits—are documents subject to the Protective Orders. These documents were denoted as "confidential" or otherwise contain information derived from confidential documents.

9. Furthermore, the Sealed Exhibits contain "means of identification" as that term is defined by section 1028(d) of title 18. *See* 18 U.S.C. § 1028(d). For instance, the vast majority of the Sealed Exhibits are tax filings, or related tax appeal filings, that contain social security numbers, addresses, and other information related to Highland, Daugherty, and other persons such that there is a potential risk that either Highland, Daugherty, or other persons could be subject to identity theft or other unlawful injury. *See* 11 U.S.C. § 107(c)(1).

WHEREFORE, the Parties respectfully request that the Court enter the Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Respectfully submitted this 15th day of April 2026.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

-and-

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 15th day of April, 2026, via the CM/ECF system and/or email.

/s/ draft
ANDREW K. YORK

Exhibit A

Proposed Order

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P., Reorganized Debtor.	§ § § § § § §	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff/Counter-Defendant, v. PATRICK HAGAMAN DAUGHERTY, Defendant/Counter-Plaintiff.	§ § § § § § § § § § § §	Adversary No. 25-03055-bwo

ORDER AUTHORIZING PLAINTIFF HIGHLAND CAPITAL MANAGEMENT, L.P., AND DEFENDANT PATRICK HAGAMAN DAUGHERTY TO FILE CERTAIN EXHIBITS UNDER SEAL

Upon the joint motion ("Motion")[1] of Highland Capital Management, L.P. ("Highland") and Patrick Hagaman Daugherty ("Daugherty") (together, the "Parties") for entry of an order (this "Order"): (a) authorizing Highland to file under seal Highland's exhibits 14, 21-28, 35-37, 57, 61, 62 ("Highland's Sealed Exhibits") from Highland's Witness and Exhibit List and Daugherty to file under seal exhibits 17-26, 21a, 29, 60-62, 64-67, 69, 72-77 and 83-85 ("Daugherty's Sealed Exhibits," and together with Highland's Sealed Exhibits, the "Sealed Exhibits") from Daugherty's Witness and Exhibit List because the Sealed Exhibits discuss

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

information designated as confidential by agreed protective orders entered in this matter (Docket Nos. 67 and 77) (the "Protective Orders"); and (b) granting related relief; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. § 1409; and this Court having found good cause for the relief requested in the Motion; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED**.

2. Highland is authorized to file Highland's Sealed Exhibits under seal.

3. Daugherty is authorized to file Daugherty's Sealed Exhibits under seal.

4. Any confidential information contained in the Sealed Exhibits shall remain confidential and under seal.

5. Any and all testimony and documentary evidence disclosing any confidential information at any hearing discussing the Sealed Exhibits shall be sealed at such hearing.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. The Parties are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

 # # # END OF ORDER # # #

Submitted by:

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

-and-

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC
/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In Re: Highland Capital Management, L.P

§

§ Case No 19−34054−SGJ-11

Patrick Daugherty - Appellant §

25-03055

vs §

3:26-CV-02664-S

Highland Capital Management, L.P., et al - Appellee

§

§

[138] Judgment. Entered on 8/7/2026

APPELLANT RECORD

VOLUME 9

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055-bwo
Defendant.	§	
	§	INDEX

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the July 24, 2026 *Judgment and Memorandum Opinion* [Docket Nos. 138, 139 in Adversary No. 25-03055-bwo]. *See Notice of Appeal* [Docket No. 142 in Adversary No. 25-03055-bwo].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court erred in disallowing Daugherty's Reserved Claim based on the Employment Agreement's termination provisions, when the Court itself found the 2009 Compensation Statement was incorporated into the Employment Agreement and resolved its ambiguity in Daugherty's favor, concluding that Highland Capital Management, L.P. ("Highland") intended to compensate Daugherty for any material deviation in his 2008 tax refund.

2. Whether the Bankruptcy Court erred in applying the "no further liability or obligation" language of Sections 4.5 and 4.6 of the Employment Agreement to extinguish Daugherty's compensation entitlement under the 2009 Compensation Statement, when that language pertains to severance contingent upon execution of a separation agreement and not to earned compensation that accrued during Daugherty's active employment.

3. Whether the Bankruptcy Court erred in holding that James Dondero's oral promises to cover Daugherty's contingent tax liability were unenforceable under Texas's statute of frauds, Tex. Bus. & Com. Code § 26.01, when Highland had a main purpose of its own in making the promise and when the Court failed to consider Daugherty's continued employment and forbearance as adequate consideration.

4. Whether the Bankruptcy Court erred in denying Daugherty's counterclaim for specific performance of the Settlement Agreement's books-and-records provision by construing that provision through the statutory categories of 6 Del. C. § 18-305(a), rather than by the plain meaning of the negotiated Settlement Agreement requiring Highland to "transfer its *interests* in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims," including "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system."

5. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of

the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

6. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, inter alia, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

Vol. 1
000001
000008

1. Notice of Appeal for Adversary No. 25-03055-bwo [Docket No. 142].

2. The Judgment Order or Decree appealed from: July 24, 2026 – Judgment [Docket No. 138].

000010

3. July 24, 2026 – Memorandum of Opinion [Docket No. 139].

000035

4. Docket Sheet for Adversary Case No. 25-03055-bwo kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 25-03055-bwo:

Vol. 2

Filing Date	Docket No.	Description
05/02/2025	1	(16 pgs; 3 docs) Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/05/2025	2	(4 pgs; 2 docs) Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3	(2 pgs) Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre-trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us-

000053
000064
000073

Vol. 2

		courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025	4	(4 pgs) Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025	5	(13 pgs; 2 docs) Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025	6	(5 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025	7	(10 pgs) Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025	8	(12 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025	9	(13 pgs; 2 docs) Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025	10	(13 pgs; 2 docs) Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025	11	(43 pgs; 5 docs) Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

000076
000079
000092
000097
000107
000119
000132
000145

Vol. 2

07/28/2025 000188	12	(4 pgs) Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025 000192	13	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025 000195	14	(6 pgs; 2 docs) Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025 000201	15	(13 pgs) Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025 000214	16	(5 pgs) Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)

08/18/2025	17	(3 pgs) Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025	18	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025	19	(225 pgs; 12 docs) Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)
09/04/2025	20	(48 pgs; 2 docs) Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/05/2025	23	(3 pgs) Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025	24	(5 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)

09/19/2025	25	(9 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
09/23/2025	27	(13 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
09/23/2025	28	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
09/23/2025	30	(6 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02584-E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
09/25/2025	31	(7 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
09/25/2025	32	(4 pgs) BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
09/26/2025	33	(44 pgs; 2 docs) Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
09/29/2025	34	(1 pg) Request for Transcript regarding a hearing held on 9/4/2025. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

vol. 3

09/30/2025 000592	35	(36 pgs) Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025 000628	36	(6 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025 000634	37	(14 pgs) Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025 000648	38	(11 pgs) Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025 000659	39	(45 pgs; 2 docs) Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)

Case 3:26-cv-02664-S Document 12-9 Filed 10/27/26 Page 10 of 175 PageID 2868

Vol. 3

000704 10/03/2025	40	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
000707 10/03/2025	41	(6 pgs) Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
000713 10/04/2025	42	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
000729 10/04/2025	43	(13 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)

Vol 4

000742 10/06/2025	44	(29 pgs) Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
000771 10/09/2025	45	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
000774 10/09/2025	46	(3 pgs) Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Morris, John)
000777 10/09/2025	47	(3 pgs) Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
000780 10/09/2025	48	(3 pgs) Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Demo, Gregory)
000783 10/13/2025	49	(9 pgs) Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related

		documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50	(1 pg) Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	51	(6 pgs) Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53	(1 pg) Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25-cv-02584-E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54	(1 pg) Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25-cv-02584-E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55	(3 pgs) Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56	(8 pgs) Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57	(7 pgs) DISTRICT COURT Stipulation concerning supplement to record on appeal re: 3:25-cv-02584-E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of

Vol 4

		issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58	ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25-03055, effective immediately. The Bankruptcy Clerk of Court will re-assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025		Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59	(11 pgs) Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60	(14 pgs; 2 docs) Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61	(156 pgs; 7 docs) Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62	(3 pgs) Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).

000819

000830

000844

Vol. 5

001000

Vol 5

12/29/2025 001003	63	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
12/30/2025 001006	64	(19 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/30/2025 001025	65	(3 pgs) Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/30/2025 001028	66	(14 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/31/2025 001042	67	(14 pgs) Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
01/02/2026 001056	68	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
01/05/2026 001072	69	(12 pgs) Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
01/05/2026 001084	70	(10 pgs; 2 docs) Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
01/08/2026 001094	71	(10 pgs) Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion*

Case 3:26-cv-02664-S Document 12-9 Filed 10/27/26 Page 14 of 179 PageID 2872

Vol 5			*to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
001104	01/12/2026	72	(4 pgs) Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff

Vol. 5

		Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026 001108	73	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/15/2026 001111	74	(2 pgs) Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)
01/17/2026 001113	76	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
01/23/2026 001117	77	(16 pgs) Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
01/25/2026 001133	78	(18 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
01/26/2026 001151	79	(13 pgs) Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
01/26/2026 001164	80	(13 pgs) Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
01/28/2026 001179	81	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman

Vol 5

		Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026	82	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/09/2026	84	(4 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026	85	(7 pgs) Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026	86	(9 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026	87	(3 pgs) Notice to take deposition of T.J. Liles-Tims filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
02/27/2026	88	(2 pgs) Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026	89	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)

001192
001207
001211
001218
001227
001230
001232

VOTS.

03/10/2026 001236	91	(3 pgs) Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026 001239	93	(5 pgs) Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026 001244	94	(8 pgs) Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026 001252	95	(3 pgs) Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026 001255	96	(10 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)
04/02/2026 001265	97	(8 pgs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)

Vol. 5

001273 04/02/2026	98	(8 pgs) Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
001281 04/08/2026	99	(9 pgs) Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001290 04/10/2026	100	(28 pgs) Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
001318 04/13/2026	101	(28 pgs) Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
001346 04/13/2026	102	(21 pgs) Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
001367 04/14/2026	103	(8 pgs) Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
001375 04/14/2026	104	(8 pgs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
001383 04/15/2026	105	(1782 pgs; 95 docs) Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-01 # 2 Exhibit PD-02 # 3 Exhibit PD-03 # 4 Exhibit PD-04 # 5 Exhibit PD-05 # 6 Exhibit PD-06 # 7 Exhibit PD-07 # 8 List of 20 Largest Creditors PD-08 # 9 Exhibit PD-09 # 10 Exhibit PD-10 # 11 Exhibit PD-11 # 12 Exhibit PD-12 # 13 Exhibit PD-13 # 14 Exhibit PD-14 # 15 Exhibit PD-16 # 16 Exhibit PD-16 # 17 List of 20 Largest Creditors PD-17 # 18 Exhibit PD-18 # 19 Exhibit PD-19 # 20 Exhibit PD-20 # 21 Exhibit PD-21 # 22 Exhibit PD-22 # 23 Exhibit PD-23 # 24 Exhibit PD-24 # 25 Exhibit PD-25 # 26 Exhibit PD-26 # 27 Exhibit PD-27 # 28 Exhibit PD-28 # 29 Exhibit PD-29 # 30 Exhibit PD-30 # 31 Exhibit PD-31 # 32 Exhibit PD-32 # 33 Exhibit PD-33 # 34 Exhibit PD-34 # 35 Exhibit PD-35 # 36 Exhibit PD-36 # 37 Exhibit PD-37 # 38 List of 20 Largest Creditors PD-38 # 39 List of 20 Largest Creditors PD-39 # 40 Exhibit PD-40 # 41 List of 20 Largest Creditors PD-41 # 42 Exhibit PD-42 # 43 Exhibit PD-43 # 44 Exhibit PD-44 # 45 Exhibit PD-45 # 46 Exhibit PD-46 # 47 Exhibit PD-47 # 48 Exhibit PD-48 # 49 Exhibit PD-49 # 50 Exhibit PD-50 # 51 Exhibit PD-51 # 52 Exhibit PD-52 # 53 Exhibit PD-53 # 54 Exhibit PD-54

Vol 5 001383		# 55 Exhibit PD-55 # 56 Exhibit PD-56 # 57 Exhibit PD-57 # 58 Exhibit PD-58 # 59 Exhibit PD-59 # 60 Exhibit PD-60 # 61 Exhibit PD-61 # 62 Exhibit PD-62 # 63 Exhibit PD-63 # 64 Exhibit PD-64 # 65 Exhibit PD-65 # 66 Exhibit PD-66 # 67 Exhibit PD-67 # 68 Exhibit PD-68 # 69 Exhibit PD-69 # 70 Exhibit PD-70 # 71 Exhibit PD-71 # 72 Exhibit PD-72 # 73 Exhibit PD-73 # 74 Exhibit PD-74 # 75 Exhibit PD-75 # 76 Exhibit PD-76 # 77 Exhibit PD-77 # 78 Exhibit PD-78 # 79 Exhibit PD-79 # 80 Exhibit PD-80 # 81 Exhibit PD-81 # 82 Exhibit PD-82 # 83 Exhibit PD-83 # 84 Exhibit PD-84 # 85 Exhibit PD-85 # 86 Exhibit PD-86 # 87 Exhibit PD-87 # 88 Exhibit PD-88 # 89 Exhibit PD-89 # 90 Exhibit PD-90 # 91 Exhibit PD-91 # 92 Exhibit PD-92 # 93 Exhibit PD-93 # 94 Exhibit PD-94) (York, Andrew)
001385	04/15/2026 106	(11 pgs) Joint Motion to file document under seal. *Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (York, Andrew)
Vol. 6 001396 Thru Vol 7	04/15/2026 107	(696 pgs; 66 docs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
Vol 7 002092	04/15/2026 108	(5 pgs) Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
002097	04/15/2026 109	SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital

Vol. 7

		Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	110	SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	111	SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	112	SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	113	SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	114	SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	115	SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	116	SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)

04/15/2026	117	SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118	SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119	SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120	SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121	SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122	SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123	SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124	(30 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)101 Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff

		Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	126	(64 pgs; 5 docs) Support/supplemental document *Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-95 # 2 Exhibit PD-96 # 3 Exhibit PD-97 # 4 Exhibit PD-98) (York, Andrew)
04/16/2026	127	(3 pgs) Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128	(15 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129	(7 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130	(9 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	132	(1 pg) Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133	(1 pg) Request for Transcript regarding a hearing held on 4/17/2026. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

Vol. 8	05/18/2026	135	(327 pgs) Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken under advisement; each side to file proposed Findings of Fact and Conclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
002220			
Vol. 9	06/05/2026	136	(47 pgs) Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
002555			
002602	06/05/2026	137	(19 pgs) Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
002621	07/24/2026	138	(2 pgs) Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
002623	07/24/2026	139	(25 pgs) Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
002648	07/26/2026	140	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002652	07/26/2026	141	(27 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
002679	08/07/2026	142	(7 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
002686	08/11/2026	144	(9 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation

		due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146	(4 pgs) DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26-cv-02664-S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147	(4 pgs) BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver of, any and all rights, remedies, challenges and objections.

Respectfully submitted this 2nd day of September, 2026,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of September 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant
Highland Capital Management, L.P.

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff/Counter-Defendant, v. PATRICK HAGAMAN DAUGHERTY, Defendant/Counter-Plaintiff.	§	Adv. Proc. No. 25-03055-bwo **Highland Capital Management, L.P.'s Post-Trial Proposed Findings of Fact and Conclusions of Law**

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX, 75214.

TABLE OF CONTENTS

Page

I. NATURE OF ACTION AND PROCEDURAL POSTURE 1

II. STIPULATED FACTS 3

III. FACTS ADDUCED AT TRIAL 5

A. Daugherty's Employment, Partnership, and 2008 Comp Statement 5

B. Daugherty's 2008 Tax Return and Receipt of Refund 6

C. The Highland 2008 Tax Year Audit; Daugherty Resigns from Highland; Daugherty Sues for Breach of Employment Agreement 7

D. Daugherty's Employment Agreement and Failure to Sign Separation Agreement 10

E. The Claimant Trust, Claim 205, the Settlement Agreement, and the Objection to Reserved Claim 12

F. Evidence at Trial Concerning Estimation of the Reserved Claim 13

G. Highland's Performance Under the Books and Records Provision in the Settlement Agreement 21

IV. DETERMINATION OF CONTESTED ISSUES OF FACT AND LAW 24

A. The Party with the Ultimate Burden of Proof on Each Cause of Action and Defining Those Burdens 24

B. The Compensation Statement Is Not a Binding and Enforceable Contract (Mixed Question of Law and Fact) 24

C. If Highland Had Obligations Under the Compensation Statement, They Were Fulfilled 29

D. Daugherty's Reserved Claim Should Be Disallowed (Mixed Question of Law and Fact) 33

E. If the Compensation Statement Is an Enforceable Contract, and Highland Has Not Fulfilled Its Obligations Thereunder, Daugherty's Reserved Claim Can Be Estimated in Accordance with Section 502(c) of the Bankruptcy Code (Mixed Question of Law and Fact) 33

F. Failure to Estimate Daugherty's Reserved Claim Before August 11, 2026 Would Unduly Delay the Administration of Highland's Bankruptcy Case 34

G. If Daugherty's Reserved Claim Can Be Estimated, How Much Is the Reserved Claim Estimated to Be for Purposes of Allowance? 35

H. Whether Daugherty's Breach of Contract Counterclaim Is Barred by the Statute of Limitations? 37

I. Highland Fulfilled Its Obligations Under the Books and Records Provision (Mixed Question of Law and Fact) 37

J. Daugherty Withdrew His Claim for Attorneys' Fees 43

V. CONCLUSION 43

HIGHLAND CAPITAL MANAGEMENT, L.P.'S POST-TRIAL PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Highland Capital Management, L.P. ("Highland" or "HCMLP") submits its *Post-Trial Proposed Findings of Fact and Conclusions of Law* pursuant to the Court's direction provided at the conclusion of the trial (the "Trial") of this adversary proceeding (the "Adversary Proceeding") on April 17, 2026.

I. NATURE OF ACTION AND PROCEDURAL POSTURE

1. This action concerns Daugherty's contingent, unliquidated claim against Highland arising from the audit of Highland's 2008 tax return (the "Reserved Claim") and Highland's claims against Daugherty seeking to disallow and estimate his Reserved Claim.[2] This action also concerns Daugherty's Counterclaims (defined below). JPO ¶ 1.[3]

2. On October 16, 2019, Highland filed its petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") commencing the above-captioned bankruptcy case (the "Bankruptcy Case" or the "Case"). Thereafter, Daugherty filed several proofs of claim in the Bankruptcy Case. Those claims culminated in Daugherty's claim filed December 23, 2020 appearing as claim no. 205 on the claims register in the Highland Bankruptcy Case ("Claim 205"), which superseded and replaced all Daugherty's prior claims. JPO ¶ 2.

3. In November 2021, Daugherty and Highland entered into that certain *Settlement Agreement* (the "Settlement Agreement"), which resolved all aspects of Daugherty's claims against Highland's estate except for the Reserved Claim. On March 8, 2022, the Court entered an order approving the Settlement Agreement [Bankr. Docket No. 3299] (the "Settlement Order").

[2] Highland has withdrawn its claim for subordination under 11 U.S.C. § 510(b).

[3] "JPO" refers to the Joint Pretrial Order entered on April 13, 2026 at Docket No. 101.

The Settlement Agreement provided, among other things, that Highland would transfer to Daugherty its "interests in HERA and ERA,"[4] and that such transfer will include "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system . . . [and] be without representation or warranty of any type … and without any liability or material cost to HCMLP or its affiliates ...." Highland Ex. 5 ¶ 8 (the "Books and Records Provision"). The Settlement Agreement further provided that Highland expressly "reserve[d] the right to assert any and all defenses" to the Reserved Claim. *Id*. ¶ 9; JPO ¶ 3.

4. On May 2, 2025, Highland commenced the Adversary Proceeding by filing its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1] (the "Complaint"). In its Complaint, Highland asserted three claims: (a) disallowance of the Reserved Claim, (b) estimation of the Reserved Claim pursuant to 11 U.S.C. 502(c), and (c) subordination of the Reserved Claim under 11 U.S.C. § 510(b), (excluding the claim for subordination which has been withdrawn with prejudice, "Highland's Claims"). JPO ¶ 4.

5. On June 5, 2025, Daugherty filed a motion to dismiss the Complaint [Docket No. 5] (the "Motion to Dismiss"). On July 18, 2025, Highland filed *Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* [Docket No. 10] (the "Cross Motion"). At the hearing on Daugherty's Motion to Dismiss and Highland's Cross Motion, the Court denied the Motion to Dismiss and granted the Cross Motion. The Court's ruling struck a particular

[4] "HERA" refers to "Highland Employee Retention Assets LLC" and "ERA" refers to "Highland ERA Management, LLC."

provision of the Settlement Agreement that Daugherty contends prohibited Highland from filing this Adversary Proceeding.[5] JPO ¶ 5.

6. On October 3, 2025, Daugherty filed his *Answer* and *Original Counterclaim* [Docket No. 39] asserting three causes of action against Highland for (a) breach of contract for breach of the Books and Records Provision; (b) specific performance through which Daugherty seeks an order requiring Highland to turn over all of the HERA and ERA books and records in compliance with the Books and Records Provision; and (c) attorneys' fees arising from Highland's alleged bad faith conduct in commencing the Adversary Proceeding (collectively, the "Counterclaims"). On October 24, 2025, Highland filed its answer to the Counterclaims (which included its affirmative defenses) [Docket No. 56]. JPO ¶ 6.

7. The Court conducted the Trial on Highland's Claims and Daugherty's Counterclaims on April 17, 2026 in which it admitted certain documents into evidence (subject to certain limitations stated on the record) [Docket No. 132] and heard testimony from James P. Seery, Jr. (Highland's Chief Executive Officer), David Klos (Highland's Chief Financial Officer), Patrick Daugherty (the Claimant and defendant in this Adversary Proceeding), and Trevor Jason Liles-Tims (an individual who proffered expert testimony on Daugherty's behalf).

II. STIPULATED FACTS

8. From 1998-2011, Daugherty was employed by Highland. JPO ¶ 8.

9. Daugherty and Highland entered into that certain Amended Employment Agreement dated as of December 31, 2004 (the "Employment Agreement"). Highland Ex. 11; JPO ¶ 9.

[5] Daugherty appealed to the District Court from this Court's order granting the Cross Motion. That appeal is still pending. In the JPO, Daugherty agreed that he would not relitigate those issues during the April 17 Trial. *See* JPO at 3 n.5.

10. On or about February 27, 2009, Highland issued to Daugherty a Comprehensive Compensation and Benefits Statement (the "Comprehensive Statement"). Highland Ex. 13; Daugherty 14; JPO ¶ 10.

11. In 2009, based on a draft Schedule K-1 that Highland provided to him, Daugherty filed his 2008 federal income tax return. JPO ¶ 11.

12. In 2009, Daugherty received refunds from the IRS of previously paid taxes in the amounts of $493,629 and $780,301 related to his 2008 Individual Income Tax Return (Form 1040) and his 2008 Application for Tentative Refund (Form 1045), respectively. These forms incorporated Highland's losses that had been allocated to him as provided for in the draft Schedule K-1. JPO ¶ 12.

13. On March 3, 2010, the IRS notified Highland that it was initiating an audit of Highland's 2008 federal income tax returns. JPO ¶ 13.

14. On September 28, 2011, Daugherty gave voluntarily notice of resignation from all positions at Highland. Highland Ex. 12; JPO ¶ 14. His last day as an employee at Highland was October 31, 2011. JPO ¶ 14.

15. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code. JPO ¶ 15.

16. On February 22, 2021, the Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943] (the "Confirmation Order") with respect to the Plan.[6] JPO ¶ 16.

[6] The "Plan" refers to the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on the main docket at Docket No. 1808. The Confirmation Order was subsequently modified for reasons irrelevant to the Motion. *See* Bankr. Docket No. 4378.

17. The Plan included a form of *Claimant Trust Agreement* (the "CTA"). Bankr. Docket No. 1811, Exhibit R (preamble); JPO ¶ 17.

18. The Plan created the CTA when the Plan went effective on August 11, 2021. Bankr. Docket No. 2700; JPO ¶ 18.

19. On November 22, 2021, Daugherty and Highland executed the Settlement Agreement. Highland Ex. 5; JPO ¶ 19.

20. On March 8, 2022, the Court entered the Settlement Order approving the Settlement Agreement. JPO ¶ 20.

21. On May 5, 2022, and October 19, 2022, Highland delivered certain documents and materials to Daugherty as reflected in Daugherty Exhibits 33 and 34, respectively. JPO ¶ 21.

22. The Reserved Claim remains disputed, contingent, and unliquidated. JPO ¶ 22.

III. FACTS ADDUCED AT TRIAL

23. The following facts were established by the testimony and documentary evidence admitted at the Trial of this matter.

A. Daugherty's Employment, Partnership, and 2008 Comp Statement

24. Daugherty was an employee and limited partner of Highland from 1998 until his resignation, noticed by letter dated September 28, 2011. Highland Ex 12; Daugherty Ex. 15; Trial Tr. at 247:11-16.

25. The unsigned Comprehensive Statement summarizes the compensation and benefits that Daugherty received for his work at Highland in 2008 and includes a statement of his prospective base salary effective March 1, 2009. Highland Ex. 13; Daugherty Ex. 14.

26. In the "Earnings and Awards" section, the Comprehensive Statement includes the following: "2008 Tax Refund $1,475,816 Refund is an estimated amount. If actual refund deviates

materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months." Highland Exhibit 13; Daugherty Ex. 14.

27. Daugherty testified that the 2008 Tax Refund was provided by Highland in place of a cash bonus, as Highland did not have the funds to pay cash bonuses directly as a result of its strained financial circumstances arising from the 2008 financial crisis. Trial Tr. at 294:24-295:20.

B. Daugherty's 2008 Tax Return and Receipt of Refund

28. In April 2009, based on a draft Schedule K-1 that Highland provided to him (the "Draft K-1"), Daugherty filed his 2008 federal income tax return with the IRS. JPO § 11; Daugherty Ex. 26.

29. The Draft K-1 identified Daugherty's "partner's share of loss" as 0.746998% as of December 31, 2008. *Id.*

30. Using the Draft K-1, Daugherty filed his 2008 form 1040 U.S. Individual Tax Return with the IRS attesting "under penalties of perjury I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct and complete" (the "2008 1040"). Highland Ex. 35; Daugherty Ex. 23.

31. Based on line 73a of the 2008 1040, Daugherty requested an IRS refund in the amount of $493,629 of 2008 tax previously paid. Highland Ex. 35 (line 73a); Daugherty Ex. 23 (line 73a).

32. In addition to the 2008 1040, Daugherty also filed a 2008 IRS Form 1045 Application for Tentative Refund (the "2008 1045") to recover taxes previously paid related to the 2006 tax year. The 2008 1045 was also delivered to the IRS by Daugherty with the attestation: "under penalty of perjury, I declare that I have examined this application and the accompanying schedules and statements and to the best of my knowledge and belief, they are true accurate, and complete." Highland Ex. 36; Daugherty Ex. 22.

33. Based on line 27 of the 2008 1045, Daugherty requested an IRS refund in the amount of $780,301 from the IRS for 2006 tax previously paid. Highland Ex. 36 (line 27); Daugherty Ex. 22 (line 27).

34. In sum, in 2009, as a result of the 2008 1040 and the 2008 1045 filings, Daugherty actually received refunds from the IRS of previously paid taxes in the amounts of $493,629 and $780,301 for a total refund of $1,273,930 (the "Refund Received") based on Daugherty's allocable partner's share of losses as identified in the Draft K-1. JPO ¶ 12.

35. Later in 2009, Highland issued its final 2008 Schedule K-1 to Daugherty identifying Daugherty's "partner's share of loss" as 0.740262% as of December 31, 2008 (the "Final K-1"). Highland Ex. 14; Daugherty Ex. 24.

36. The Final K-1 with Daugherty's 0.740262% partner's share of loss was delivered to the IRS, set Daugherty's partner's share of loss as 0.00674% less than the Draft K-1, and was later used by the IRS, rounded to 0.74030000%, in its calculation of Daugherty's percentage of Highland portfolio income in connection with the 2008 Tax Year Audit (below). Highland Ex. 17; Daugherty Ex. 28.

C. The Highland 2008 Tax Year Audit; Daugherty Resigns from Highland; Daugherty Sues for Breach of Employment Agreement

37. On March 3, 2010, the IRS notified Highland that it was initiating an audit of Highland's 2008 federal income tax return (the "2008 Tax Year Audit"). JPO ¶ 13.

38. On September 28, 2011, Daugherty gave voluntary notice of resignation from all positions at Highland with his last day as an employee being October 31, 2011 (the "Resignation Date"). JPO ¶ 14.

39. On May 22, 2012, Daugherty filed his original answer, counterclaim, and third-party petition (the "Texas Action") against a number of counter-defendants, including Highland,

in the 68th Judicial District Court of Dallas County. Among the causes of action Daugherty asserted was a claim for breach of the Employment Agreement. Highland Ex. 45.

40. On February 6, 2014, a jury returned a verdict in the Texas Action, which found, among other things, that Highland had complied with the Employment Agreement. Highland Ex. 44 (Jury Questions and Answers: "Q: Did Highland fail to comply with the Employment Agreement? A: No.").

41. On December 8, 2017, the IRS examiner completed the IRS audit of the 2008 Tax Year Audit and executed IRS Form 4605-A with the Examination Changes to the Highland 2008 tax return ("Form 4605-A"). Highland Ex. 15; Daugherty Ex. 27.

42. Pursuant to Form 4605-A, the IRS proposed to increase Highland's reported 2008 short-term portfolio income by $166,332,713 (the "2008 Adjustment"). *Id.* The IRS proposed no adjustments to Highland's reported ordinary loss of $546,177,906. *Id.*

43. After Highland's previously reported 2008 portfolio income of $3,570,236 was upwardly adjusted by the 2008 Adjustment, the corrected short-term portfolio income for Highland for 2008 was determined by the IRS to be $169,902,949 ("Total 2008 Partnership Income"). *Id.*

44. By letter dated February 3, 2018, Brian Collins of Highland advised Daugherty in writing that the IRS (a) had concluded its 2008 Tax Year Audit, (b) proposed adjustments to the Highland 2008 tax return, and (c) would hold a closing conference on March 2, 2018 ("Collins 1"). Highland Ex 16; Daugherty Ex. 16.

45. Collins 1 also attached (a) IRS Form 886-Z (redacted) ("Form 886-Z") and (b) IRS Form 870-PT ("Form 870-PT"). Highland Exs. 17, 18; Daugherty Exs. 28, 29.

46. The Form 886-Z entitled "TEFRA Partners' Share of Income" lists all of the 2008 Highland partners by name and address, their respective TIN (taxpayer identification number), and "Percentage of Profit, and Portfolio income (loss) net short-term gain (loss)."[7] Highland Ex. 17; Daugherty Ex. 28.

47. The Form 886-Z lists Daugherty with his address and TIN, his percentage of profit at 0.74030000% (same as the Final K-1, only rounded to four decimal places), and his total adjusted portfolio income as $1,257,792. Highland Ex. 17; Daugherty Ex. 28; Trial Tr. at 50:14-22 (Klos); 253:19-254:1 (Daugherty).

48. The Form 886-Z total adjusted portfolio income for Daugherty was calculated by multiplying Daugherty's 0.74030000% share of the partnership interest by Highland's Total 2008 Partnership Income shown on page 2 of the Form 886-Z. Highland Ex. 17; Daugherty Ex. 28.

49. Collins 1 also provided Daugherty with a copy of IRS Form 870-PT specifically made out for Daugherty's assent. Highland Exs. 16, 18; Daugherty Exs. 16, 29.

50. The Form 870-PT is an offer of agreement from the IRS to Daugherty pursuant to which the IRS and Daugherty would agree on the IRS's proposed adjustments to the Highland 2008 return resulting from the 2008 Tax Year Audit. *Id*.

51. Annexed to the Form 870-PT is the IRS's "Schedule of Adjustments" which proposes that Daugherty agree to the 2008 Adjustment and the 2008 Total Partnership Income. Highland Ex. 18.

[7] Highland's and Daugherty's Exhibits are redacted to exclude all of the partners' information, except for Daugherty's and the total.

52. No evidence was offered that Daugherty accepted the 2008 IRS proposal reflected in the Form 870-PT, and based on the existence of the pending dispute, the Court infers that Daugherty effectively rejected the IRS's proposal.

53. By email dated July 3, 2018 ("Collins 2"), Collins advised Daugherty that: (a) Daugherty may have received a 60-Day Letter from the IRS, (b) Highland's tax matters partner would appeal the 2008 Adjustment to the IRS Appeals Office, and (c) Daugherty would have the opportunity to accept any settlement by the tax matters partner as to his pro rata share or individually dispute the adjustment in judicial proceedings. Highland Ex. 19; Daugherty Ex. 31.

54. By email dated December 9, 2019, Collins advised Daugherty that "by letter dated December 8, 2017, Exam [*i.e.*, the IRS field examiners] indicated that they had concluded their audit," made proposed adjustments, issued an audit report, and held a closing conference ("Collins 3"). Highland Ex. 20; Daugherty Ex. 32.

55. Collins 3 also advised Daugherty that Highland had formally disagreed with the IRS's proposed adjustments and that the 2008 Tax Year Audit had been transferred to the IRS Office of Appeals. *Id.*

56. The appeal of the IRS's final adjustments from the 2008 Tax Year Audit continues, and there is no known date when the appeal is expected to be completed. Trial Tr. at 61:10-23 (Klos), 173:18-174:1 (Liles-Tims)

D. Daugherty's Employment Agreement and Failure to Sign Separation Agreement

57. Daugherty and Highland entered into the Employment Agreement. JPO ¶ 9. Highland Ex. 11.[8]

[8] While Daugherty testified that he did not have a copy of his Employment Agreement (Trial Tr. at 248:22-24), the parties stipulated that Daugherty and Highland entered into the Employment Agreement dated as of December 31, 2004, and a copy of the Employment Agreement was admitted into evidence without objection. *See* JPO ¶ 9 ; Highland Ex. 11.

58. The Employment Agreement was in effect through the Resignation Date, and Daugherty has not been employed at Highland since the Resignation Date. Trial Tr. at 248:5-16.

59. Daugherty claims that the 2008 Tax Refund he received and any "guarantee" thereof was part of his discretionary "non-cash" bonus for 2008. Claim 205, Addendum to Proof of Claim filed by Patrick H. Daugherty ("Addendum") ¶ 3(ii)); *Patrick Hagaman Daugherty's Motion for Leave to Amend Proof of Claim No. 77* [Bankr. Docket No. 1280], Ex. B, Addendum ¶ 3(ii); *see also Patrick Daugherty's Trial Brief* [Docket No. 102] (the "Daugherty Trial Brief") ¶ 10 ("Highland's intent to guarantee Daugherty's compensation is plain.").

60. Section 3.1 of the Employment Agreement requires that Daugherty must be employed in order to be eligible for a bonus: "[Daugherty] must be employed on the payment date(s) in order to be eligible for the bonus." Highland Ex. 11 § 3.1.

61. Section 4.5 of the Employment Agreement mandates that if, at the future time his employment terminates, Daugherty does not sign the separation and release form attached as Exhibit A to the Employment Agreement, "[Daugherty] shall not be entitled to any severance, and [Highland] will have no further liability or obligation to [Daugherty] under [the Employment Agreement] or in connection with [Daugherty's] employment or termination." Highland Ex. 11 § 4.5.

62. Daugherty and Highland later attempted to negotiate a different set of separation and release documents that would have provided Daugherty with, among other things, a tax indemnity related to the 2008 Tax Audit. Trial Tr. at 207:9-209:5; Highland Exs. 38, 40, 41. The parties did not reach agreement, and Daugherty never signed and returned to Highland an executed Exhibit A to the Employment Agreement or any other separation agreement and release. Trial Tr. at 206:2-207:3.

E. The Claimant Trust, Claim 205, the Settlement Agreement, and the Objection to Reserved Claim

63. The Plan and the CTA created the Claimant Trust when the Plan went effective on August 11, 2021 (the "Effective Date"). Bankr. Docket No. 2700; JPO ¶ 18.

64. Section 9.1 of the CTA requires that the Claimant Trust be dissolved no later than three years from the Effective Date, subject to a maximum additional two years of extensions as approved by the Bankruptcy Court on motion. CTA § 9.1 [Bankr. Docket No. 1811]. The Bankruptcy Court granted two one-year extensions of the life of the Claimant Trust with the final date of dissolution set at August 11, 2026. *See* Highland's *Motion for An Order Further Extending Duration of Trusts* [Bankr. Docket No. 4213] (the "Extension Motion") and *Order Extending the Duration of the Trusts* [Bankr. Docket No. 4298] entered June 30, 2025.

65. Daugherty filed Claim 205 on December 23, 2020, which included the Addendum. Highland Claims Register Claim 205; Bankr. Docket No. 1280, Ex. B; Trial Tr. 179:4-16; 258:19-259:3.

66. Claim 205 is an unsecured claim against Highland; Daugherty admitted that no part of the claim is secured. Claim 205, part 2 § 9.

67. As set out in the Addendum to Claim 205, Daugherty claimed damages for "2008 Compensation" which was comprised of two components: "Compensation Award $1,475,816.00" and "Estimated Interest on Compensation Award $1,174,537.00." Claim 205, Addendum ¶ 3. Accordingly, the Reserved Claim is capped at $2,650,353.00. Claim 205, Addendum ¶ 3; Trial Tr. 203:17-25. *See also Patrick Daugherty's Reply in Support of Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Bankruptcy Rule 3018* [Bankr. Docket No. 1411] ¶¶ 40-42 ("Daugherty provided an amount in his claim covering the maximum amount of his contingent liability for which Highland is responsible only to preserve

the claim…. The full amount of the potential contingent liability, $2,650,353, should be included in Daugherty's claim for voting purposes.").

68. In respect of the Reserved Claim, Daugherty asserted that: "[Highland] did not have sufficient cash available to pay bonuses on the February 29, 2009 payments date. Instead, it opted to award non-cash bonuses …[and] provided Daugherty with [the Comprehensive Statement]." Claim 205, Addendum ¶ 3(ii).

69. On November 22, 2021, Daugherty and Highland executed the Settlement Agreement settling and releasing all claims Daugherty had against Highland and its related parties except the Reserved Claim. Highland Ex. 5 ¶ 9; Daugherty Ex. 3 ¶ 9. The Settlement Agreement was approved by the Court on March 8, 2022. Bankr. Docket No. 3298.

70. The Reserved Claim is fully reserved in an account held by the Claimant Trust with a balance equal to the $2,650,353.00 amount of the Reserved Claim. Daugherty Ex. 94 ¶ 1; Trial Tr. at 203:13-204:2. It is the only unresolved claim left in the Highland estate. Trial Tr. at 241:25-242:3.

F. Evidence at Trial Concerning Estimation of the Reserved Claim

71. Two witnesses testified at trial concerning the estimation of the Reserved Claim, David Klos, Highland's CFO ("Klos"), and Trevor Jason Liles-Tims ("Liles-Tims"), an expert retained by Daugherty.

72. Klos offered lay testimony in which he described an objective methodology to estimate the Reserved Claim.[9] Klos' calculation was a straightforward arithmetic formula based

[9] Klos is a CPA in Texas with undergraduate degrees in accounting and finance and both a Masters of Science in accounting and a Masters of Business Administration from SMU. Trial Tr. at 45:1-14. While Klos is clearly experienced in tax matters, he was not offered as an expert witness (Trial Tr. at 45:15-23); the Court finds that Klos' testimony did not require unique expertise because it focused on applying objective, factual information to the agreed-upon methodology. While a basic understanding of certain statutes was required, Klos' testimony was fundamentally

on a number of identified inputs. The first of those inputs was the magnitude of the adjustment to Highland's total 2008 short-term portfolio income, for which Klos set forth five possible outcomes. The lowest of the outcomes reflected a complete reversal of the IRS's proposed adjustments resulting from the 2008 Tax Year Audit. The other outcomes reflected specific positions taken by the IRS and Highland's tax matters partner with respect to the IRS's proposed adjustments resulting from the 2008 Tax Year Audit.

73. Notably, Liles-Tims adopted the exact same methodology Klos employed. Trial Tr. at 122:4-14; Highland Ex. 59 ¶ 44 (describing the methodology). Yet, Liles-Tims testified that the value of the Reserved Claim could not be estimated because there were supposedly "too many variables," "too much uncertainty," and such an analysis required "too much speculation." Trial Tr. at 90:7-91:13. Highland Ex. 59 ¶¶ 33, 43, 48-49.

74. The Court rejects Liles-Tims' testimony that the Reserved Claim cannot be estimated for purposes of Section 502 for several reasons. First, the evidence established that the parties *agree* on a methodology that could be used to estimate the Reserved Claim. Second, with the sole exception of the adjustment to Highland's total 2008 short-term portfolio income, the divergence between Klos and Liles-Tims concerning the remaining inputs to the arithmetic formula were insignificant. Third, Klos' inputs were all reasonably supported by documentary evidence. Fourth, contrary to his expert, Daugherty *did* estimate the value of the Reserved Claim—a valuation that the parties used to establish the claim reserve.[10] And finally, since the

arithmetical and supported by specific statutes that both Klos and Liles-Tims agree apply and which can be found at Highland Exs. 29-34.

[10] Liles-Tims admitted that he never reviewed Daugherty's Claim 205 and never asked Daugherty if he had a view as to what his maximum liability might be. Trial Tr. at 113:11-21. The "Compensation Award" amount set forth on Daugherty's Claim 205 had simply listed the amount found on the Compensation Statement. The "Estimated Interest on Compensation Award" amount set forth in Daugherty's Claim 205 was not accompanied by details as to how it had been calculated or what inputs were used to calculate it. Claim 205, Addendum ¶ 2 and ¶ 3(ii). During his

Court finds and determines that the administration of Highland's Bankruptcy Case would be unduly delayed if the Reserved Claim were not estimated and fixed at this time, acceptance of Liles-Tims' opinion would necessarily result in the disallowance of Daugherty's Reserved Claim.[11]

75. While Liles-Tims insisted that the Reserved Claim could not be estimated and acknowledged that he hadn't specifically analyzed the applicable statutes or calculated interest using the applicable interest rates (one of the inputs to the formula), he nevertheless offered his views on each of the individual inputs of the agreed-upon methodology.

1. IRS Income Adjustment to HCMLP

76. Klos' testimony on estimation was aided by a demonstrative exhibit (Highland Ex. 65; *see* Trial Tr. at 49:11-21) that set out, in tabular format, the inputs and arithmetical calculations for estimating five potential outcomes of the 2008 Tax Year Audit.[12] The only input

deposition, Mr. Daugherty indicated that he thought he had "googled" penalty rates and interest rates, but he couldn't recall what those rates were. Highland Ex. 57 at 237:22-240:14.

[11] While not determinative, the Court also has considerable concerns regarding Liles-Tims' expertise and credibility. Liles-Tims appears to be an expert in business valuations, fraud examinations, and quantifying commercial damages (Trial Tr. 88:1-3), not IRS audits. Moreover, while Liles-Tims' history of teaching seminars and providing expert testimony on those subject matters is impressive, nothing in their lengthy descriptions evinces knowledge or expertise in the area of federal income tax audits or even tax issues generally. *See* Highland Ex. 59 (Appendix (Liles-Tims' CV at 2-7)). Further, Liles-Tims is not a CPA, has never played more than a supporting role in an IRS audit, has never testified in tax court, is not an expert in bankruptcy law, and has no opinions concerning Bankruptcy Code Section 502, the statute at issue. Trial Tr. at 88:5-89:13. Most concerning to the Court is Liles-Tims' opinion that he would be unable to estimate Daugherty's Reserved Claim even if Highland's tax matters partner reached an agreement with the IRS or there was a final judicial determination concerning the 2008 Tax Year Audit. *Id*. at 91:14-92:15. That is an extreme position that is hard to understand.

[12] The Court rejects Daugherty's counsel's suggestion that Highland unfairly presented its evidence concerning the estimate of the Reserve Claim for several reasons. First, Daugherty never moved to compel the production of such evidence thereby indicating such evidence was not responsive to Daugherty's discovery requests. Second, under the scheduling order in this Adversary Proceeding (Docket No. 37), Daugherty had the right to depose Klos (a fairly obvious witness given his role at Highland and the subject matter of this proceeding) during discovery but apparently chose not to do so. Third, Klos was identified on Highland's Witness & Exhibit list filed more than two weeks before the hearing (Docket No. 97), yet Daugherty apparently made no effort to depose Klos even then. Finally, with respect to Highland Ex. 65, the Court notes that (a) it set forth the same methodology that Daugherty's expert recited, (b) Daugherty's expert admitted that he analyzed the two-page demonstrative exhibit for 10 hours (Trial Tr. at 164:22-165:1), and (c) Daugherty's expert was able to offer his views as to the appropriateness of the inputs Klos utilized. If

that changed among the outcomes was the amount of the "IRS income adjustment to HCMLP."[13]

Klos identified the following potential outcomes based on available data:

- (I) complete reversal of the 2008 Adjustment (*i.e.*, no further tax liability to HCMLP or its former limited partners such as Daugherty);
- (II) the value of the tax matters partner's recent settlement counter-offer to the IRS ($8 million in settlement);[14]
- (III) the mid-point amount between a complete reversal (*see* I above) and the full 2008 Adjustment (*see* V below) ($83,166,357 of IRS income adjustment to HCMLP);
- (IV) the IRS's recent settlement offer ($129,528,078 of IRS income adjustment to HCMLP), and
- (V) the full IRS proposed 2008 Adjustment from the 2008 Tax Year Audit ($166,332,713 of IRS income adjustment to HCMLP).

Highland Ex. 65; Trial Tr. at 50:4-13; 58:4-59:21.

2. Daugherty's Percentage Interest in the Highland Limited Partnership

77. The next input in the methodology is Daugherty's interest in the Highland limited partnership. Relying on the Final K-1 (Highland Ex. 14) and the IRS Form 886-Z (Highland Ex. 17), Klos used 0.7403% as Daugherty's allocable share of Highland's limited partnership interests as of December 31, 2008. Highland Ex. 65; Trial Tr. at 50:14-51:6.

78. While acknowledging that Klos relied on the percentage interest that Daugherty used to obtain his tax refund (Trial Tr. at 116:3-20), Liles-Tims nevertheless suggested that the

Daugherty believed Highland unfairly presented its evidence concerning the estimation of the Reserved Claim, it could have and should have sought an adjournment or other relief.

[13] The variance in penalty percentage rates simply reflected that certain of the settlement offers had included waiver of the penalty, so were 0% and not applicable in those instances.

[14] *See* Highland Ex. 22. The tax matters partner's offer was for a single payment of $8 million to resolve all liability for all former limited partners. Calculation of Daugherty's share would be $8 million times his partnership share of 0.7403%. While it is unclear from the offer whether liability for such a payment would or could be allocated amongst the partners, including Daugherty, Highland's estimate under this scenario assumed that Daugherty would pay his ratable 0.7403% share. Trial Tr. at 84:3-21.

percentage interest somehow remained uncertain. Upon cross-examination, however, Liles-Tims was forced to admit that based on the information he reviewed, there was only one other possible alternative to the partnership percentage used in the Final K-1 and Form 886-Z: 0.783%, a percentage taken from a prior Highland limited partnership agreement that was not used by Daugherty in his 2008 1040 or 2008 1045 or by the IRS. Trial Tr. at 157:18-162:4; Highland Ex. 10 at Ex. A.

79. Based on IRS Forms 886-Z (Highland Ex. 17) and 870-PT (Highland Ex. 18), it is clear that the IRS applied 0.7403% as Daugherty's percentage interest in the partnership both for purposes of allocating his share of the proposed HCMLP 2008 Adjustment and for purposes of providing Daugherty with an opportunity to settle the audit dispute as it pertains to his partnership interest. The Court finds as a matter of fact that adopting the percentage used in the Final K-1 given to Daugherty and reported to the IRS in 2009 and used in IRS Form 886-Z (*i.e.*, 0.7403%) in 2018 is appropriate to use for claim estimation purposes.

3. 2008 Applicable Tax Rate

80. After multiplying the adjustment by Daugherty's percentage partnership interest in Highland (Trial Tr. at 51:13-17; 116:21-117:3), the next step in the agreed-upon methodology is to multiply that product by the personal income tax rate in effect in 2008. Highland Ex. 65.

81. Klos testified that the highest federal income tax rate for individuals in 2008 was 35%, and he used that rate to be conservative. Trial Tr. at 51:18-52:3, 84:5-17. Liles-Tims agreed that 35% was the highest federal income tax bracket in 2008. *Id*. at 117:4-23; 162:17-163:15; 173:2-17.

82. Based on the foregoing, the Court finds as a matter of fact that, while a lower rate may ultimately be applicable in Daugherty's particular circumstances, applying a 35% federal income tax rate is appropriate for claims estimation purposes.

4. Statutory Penalty

83. After quantifying the tax underpayment for Daugherty under the five scenarios, the next step in the agreed-upon methodology is to determine the applicable penalty to be included in the estimated claim, if any.[15]

84. According to Klos, under the applicable IRS statute and the IRS's proposed adjustments from the audit, Daugherty would face a one-time 20% penalty. Trial Tr. at 52:18-53:2; Highland Ex. 65 (Statutory Penalties). But Klos testified that no penalty would be imposed under scenarios I, II, or IV because (a) there would be no penalty if the audit was reversed (scenario I), and (b) the tax matters partner's and the IRS's settlement offers did not include a penalty component. Klos applied the 20% penalty to scenario V and a 10% penalty (the simple mid-point of 0% and the 20% statutory penalty) to scenario III. *See* Trial Tr. at 53:3-22, 55:19-23.

85. Liles-Tims (a) acknowledged that Klos relied on the right statute to determine any applicable penalty; (b) testified that the penalty could be either 20% or 30%; (c) suggested that the 30% penalty rate applies to corporations, not limited partnerships such as Highland; (d) suggested that the 30% penalty rate applies to "reported transactions", which the proposed adjustments by the IRS are not; (e) admitted that he had no opinion as to which penalty rate to

[15] This input is only relevant if the Court finds that an estimation of Daugherty's allowed claim requires the inclusion of penalties. If the Court finds that (a) Highland was not responsible for penalties under the Compensation Statement or (b) even if it was, (i) Daugherty assumed the risk that penalties might be imposed when he elected to reject the IRS's settlement offer in early 2018, or (ii) such penalties are completely mitigated by the investment return Daugherty should have been able to reasonably achieve on the 2008 Refund, then penalties are irrelevant and should be ignored for purposes of estimating the claim.

use; and (f) otherwise deferred to the Court on this issue. Trial Tr. at 122:15-123:24; 126:19-127:6; 128:9-10; 163:19-164:9; 169:16-23.

86. Based on the foregoing, including that Highland was not a corporation in 2008, the Court finds as a matter of fact that using a 20% penalty rate is appropriate for claim estimation purposes (except that if the Court ultimately estimates the claim based on the IRS settlement offer or the tax matters partner's settlement offer, then a 0% penalty rate would be appropriate in those instances, since those settlement offers explicitly excluded the application of any penalty).

5. Interest Rate

87. Klos and Liles-Tims agreed that the IRS is authorized to impose interest on tax payment deficiencies.[16]

88. According to Klos, the applicable statutory blended interest rate to be applied is 4.59%. This rate is based on the average applicable statutory rate over the interest period (described below), updated quarterly and compounded daily. Trial Tr. at 55:25-56:8; Highland Ex. 65 n.3. The historical rates that were used in the blended rate calculation and referred to in the demonstrative footnote can further be found at Highland Ex. 29 at 10-12 (with applicable rates at 11). The simple average of the historical applicable rates described above during the interest accrual period was approximately 3.8%, and the effect of the daily compounding added approximately 0.8% in the aggregate. *See* Highland Ex. 65 n. 3.

89. Liles-Tims admitted that (a) Klos relied on the same statutes cited in his own report and (b) he did not personally calculate the applicable interest rate. Yet, Liles-Tims mistakenly

[16] This input is only relevant if the Court finds that an estimation of Daugherty's allowed claim requires the inclusion of interest. If the Court finds that (a) Highland was not responsible for interest under the Compensation Statement or (b) even if it was, (i) Daugherty assumed the risk that interest might be imposed when he elected to reject the IRS's settlement offer in early 2018, or (ii) such interest is completely mitigated by the investment return Daugherty should have been able to reasonably achieve on the 2008 Refund, then interest is irrelevant and should be ignored for purposes of estimating the claim.

testified that Klos erred by not compounding interest daily, apparently overlooking Klos' contrary testimony. Highland Ex. 29; Highland Ex. 65 n. 3; Trial Tr. at 119:19-120:9; 128:11-21; 164:10-165:7.

90. Because Liles-Tims agreed that Klos relied on the appropriate statute, and because Klos correctly compounded interest daily, the Court finds as a matter of fact that utilizing a statutory blended interest rate of 4.59% to be reasonable for claims estimation purposes.

6. Time Outstanding (years)

91. The last input in the agreed-upon methodology is determining the length of time interest, if any, would be imposed.[17]

92. Liles-Tims agreed with Klos' determination that the period of time from the tax payment date (*i.e.*, April 15, 2009) through Highland's petition date (*i.e.*, October 16, 2019) equaled 10.51 years. Trial Tr. at 56:9-18; 120:10-122:3; 154:23-155:8; 165:8-12; Highland Ex. 65.

93. As set forth above, the Reserved Claim is a general unsecured claim; as such, the claim amount cannot and does not include unmatured, post-petition interest. 11 U.S.C. § 502(b)(2). Based on that, and to the extent that the Court finds that pre-petition interest should be included in the estimated claim amount, the Court finds as a matter of fact that there is no dispute that the period of time to be used to calculate pre-petition interest, if any, is 10.51 years.

7. Summary of Potential Claim Estimates

[17] This input is only relevant if the Court finds that an estimation of Daugherty's allowed claim requires the inclusion of interest. If the Court finds that (a) Highland was not responsible for interest under the Compensation Statement or (b) even if it was, (i) Daugherty assumed the risk that interest might be imposed when he elected to reject the IRS's settlement offer in early 2018; or (ii) such interest is completely mitigated by the investment return Daugherty should have been able to reasonably achieve on the 2008 Refund, then interest is irrelevant and should be ignored for purposes of estimating the claim.

94. Applying the findings of fact above to the agreed-upon methodology yields the following estimates of the Reserved Claim under the five scenarios:

Scenario	Estimated Claim amount if Highland is either not responsible for penalties or interest, or is responsible, but mitigated by investment return	Estimated Claim amount if Highland responsible for penalties and interest and no offset for mitigating damages
Scenario 1 (audit reversal)	$0	$0
Scenario 2 (tax matters partner settlement counter-offer)	$59,224	$59,224 (same because the counter-offer had no penalties or interest)
Scenario 3 (mid-point amount)	$215,488	$340,897
Scenario 4 (IRS settlement offer)	$335,614	$497,371
Scenario 5 (IRS adjustments)	$430,976	$724,892

Highland Ex. 65; *see* Trial Tr. at 58:4-60:8.

G. Highland's Performance Under the Books and Records Provision in the Settlement Agreement

95. The Settlement Agreement required Highland to "transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type …. Such transfer will be without any liability or material cost to HCMLP or its affiliates …." Highland Ex. 5 ¶ 8; Daugherty Ex. 3 ¶8.

96. On or about April 1, 2022, Highland transferred its interests in HERA and ERA, respectively, to Daugherty pursuant to written agreements (the "Transfer Agreements"). Highland Ex. 52; Trial Tr. at 190:10-15.

97. HERA and ERA were non-operating entities whose purpose was to passively hold certain assets after the 2008 financial crisis for the benefit of certain Highland employees. Neither HERA nor ERA had any employees, offices, operations, servers, or email addresses. Trial Tr. at 183:4-185:25.

98. The phrase "books and records" is not expressly defined in the Settlement Agreement. Seery credibly testified that, when read as a whole, the Books and Records Provision was intended to require Highland to deliver a limited set of documents to Daugherty. Trial Tr. at 186:24-189:8. He also testified that the parenthetical "(spreadsheet)" referred to the manner in which HERA and ERA's accounting records were maintained (in QuickBooks, an electronic format that generates output to users in Microsoft Excel), and how they would be provided to Daugherty. Trial Tr. at 189:9-25.

99. Daugherty provided no extrinsic evidence concerning the meaning of the phrase "books and records (spreadsheet)" at time the Settlement Agreement was negotiated. Daugherty admitted that the Books and Records Provision does not require Highland to provide all documents concerning HERA and ERA in its possession. Trial Tr. at 263:3-6. Daugherty also acknowledged that Highland had cooperated in good faith to deliver additional documents at his request. Trial Tr. at 271:17-272:7.

100. Daugherty never sought relief from this Court concerning Highland's compliance with the Books and Records Provision at any time before filing his Counterclaims on October 3, 2025, including at any time before commencing his action in the District Court on HERA's behalf. Trial Tr. at 277:12-17.

101. Seery credibly testified that in May 2022, Highland delivered over 50 mb of data to Daugherty in satisfaction of the Books and Records Provision (the "May Production"). Trial

Tr. at 193:16-194:4; Highland Ex. 2. The May Production contained all of HERA and ERA's (a) corporate governance records, (b) historical accounting records, and (c) historical tax filings. Trial Tr. at 192:6-21, 193:4-11; Highland Ex. 2. In the transmittal letter with the May Production, Daugherty was told: "We believe this production completes HCMLP's obligations under paragraph 8 of the settlement agreement." Highland Ex. 2.

102. Klos credibly testified that Highland also provided all the legal invoices it could locate, some 300. Trial Tr. at 81:6-11.

103. After Highland completed the May Production (which it contended satisfied its obligations under the Books and Records Provision), Daugherty requested backup documents for the materials already produced. In response, Highland re-produced the May Production as well as "as many backup documents as [David Klos] could find." Trial Tr. at 194:5-19. Highland provided those documents (including the legal invoices) to Daugherty, identifying them in an email dated October 19, 2022 (the "October Production," and together with the May Production, "Highland's Books and Records Production"). Highland Ex. 3; Trial Tr. 80:16-81:11.

104. Daugherty's Counterclaims failed to identify specific documents or categories of HERA and ERA's "books and records" that he contends Highland did not provide. *See* Highland Ex. 1. In fact, in his Counterclaims, Daugherty demanded "**Highland's books and records** related to HERA." Highland Ex. 1 ¶ 14 (emphasis added). The Daugherty Trial Brief also describes documents that plainly go beyond any reasonable interpretation of the phrase "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system," claiming:

- Highland failed to provide "books and records . . . that **related** to HERA and ERA." Daugherty Trial Brief ¶ 1 (emphasis added);
- Daugherty is entitled to "**all ownership rights, property, data, documents, and records relating** to HERA and ERA." *Id*. ¶ 25 (emphasis added);

- Daugherty needs "**all HERA and ERA materials** in Highland's possession." *Id.* ¶ 27 (emphasis added); and
- Daugherty "must receive **everything Highland possessed relating** to those entities." *Id*. (emphasis added).

IV. DETERMINATION OF CONTESTED ISSUES OF FACT AND LAW

A. The Party with the Ultimate Burden of Proof on Each Cause of Action and Defining Those Burdens

105. Under 11 U.S.C. § 502(a), a "claim ..., proof of which is filed under section 501 [of the Bankruptcy Code], is deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a). The ultimate burden of proof for a claim always lies with the claimant. *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep't of Rev.*, 530 U.S. 15 (2000)); *see also In re Couture Hotel Corp.*, 554 B.R.369, 380 (Bankr. N.D. Tex. 2016). Thus, Daugherty has the ultimate burden of proof with respect to the allowance and amount of his Reserved Claim.

106. Daugherty also has the ultimate burden of proof with respect to each of his Counterclaims. *Couture Hotel*, 554 B.R. at 380.

B. The Compensation Statement Is Not a Binding and Enforceable Contract (Mixed Question of Law and Fact)

107. The Compensation Statement is unenforceable as a contract because it is vague and indefinite and is missing material terms required to form a contract. *See APS Cap. Corp. v. Mesa Air Grp., Inc.*, 580 F.3d 265, 272-73 (5th Cir. 2009).

108. The Compensation Statement does not constitute an offer by Highland and acceptance by Daugherty, who was an "at will" employee with an Employment Agreement; rather, it is simply a summary of what Highland had or was going to pay Daugherty for services already rendered during the prior year and a reiteration of his base salary for the next year.

109. As relevant here, the alleged agreement is contained in three sentences that state only: "Refund is an ***estimated amount***. If actual refund deviates ***materially*** from estimate, ***other compensation*** will be ***fairly adjusted***. Refund is expected to be received in approximately 4 months." Highland Ex. 13 (emphases added).

110. The Compensation Agreement provides no guidance to the parties or the Court as to (a) what "materially" means for this purpose; (b) how "other compensation" might be adjusted; (c) how the "fair[ness]" of an adjustment will be assessed; (d) who will make the determinations as to (i) whether the "actual refund deviates materially from estimate," (ii) what compensation would be adjusted, or (iii) how such compensation would be "fairly adjusted"; or (e) when all of this was supposed to happen.

111. Under Texas law, an alleged contract that fails to address all essential and material terms with a reasonable degree of certainty and definiteness is unenforceable as a matter of law. *See APS Cap. Corp.*, 580 F.3d at 272 ("In order to be a legally enforceable contract, an agreement must be formed around the contours of sufficiently specific terms."). Material terms "are those that the parties would reasonably regard as vitally important elements of their bargain," and "a contract must define its essential terms with enough precision to enable the court to determine the obligations of the parties." *In re ACM-Tex., Inc.*, 430 B.R. 371, 408 (Bankr. W.D. Tex. 2010); *see also Wesdem, LLC v. Ill. Tool Works Inc.*, 2022 WL 18585978, at *4 (W.D. Tex. July 28, 2022), *aff'd sub nom.*, 70 F.4th 285 (5th Cir. 2023) ("Where the agreement is so indefinite that the Court must 'speculate' about its terms, the contract fails 'as a matter of law.'" (quoting *RealPage, Inc. v. EPS, Inc.*, 560 F. Supp. 2d 539, 547 (E.D. Tex. 2007))); *Coppock v. Doug's Corner, Inc.*, No. 5:21-CV-43-RWS-JBB, 2023 U.S. Dist. LEXIS 242726, at *10 (E.D. Tex. May 17, 2023) (noting that "the agreement's terms must also be sufficiently definite to 'enable a court to understand the

parties' obligations' and to give 'an appropriate remedy' if they are breached.") (quoting *Fischer v. CTMI, L.L.C.*, 479 S.W.3d 231, 237 (Tex. 2016)).

112. "As a general matter, Texas courts have consistently held that a contract may be held void for indefiniteness if it fails to specify 'the time of performance, the price to be paid, the work to be done, the service to be rendered, or the property to be transferred.'" *Liberto v. D.F. Stauffer Biscuit Co.*, 441 F.3d 318, 324 (5th Cir. 2006) (quoting *Engelman Irr. Dist. v. Shields Bros.*, 960 S.W.2d 343, 352 (Tex. App. 1997)). "The question of indefiniteness—whether an agreement reaches all essential terms of a given transaction—is one of law for the court." *APS Cap. Corp.*, 580 F.3d at 271 (citing *COC Svcs., Ltd. v. CompUSA, Inc.*, 150 S.W.3d 654, 664 (Tex. App. 2004)).

113. Here, under Texas law, the Compensation Statement either contains vague or indefinite terms, or omits material terms, that render it unenforceable as a contract.

114. ***First***, the 2008 tax refund is explicitly stated to be an "estimated" amount. While unstated, the refund could only come from the IRS (as the taxing authority), not Highland. But the amount is unclear; it is merely "estimated" because a tax refund to an individual can only be determined after that individual files his/her tax return and all of the individual's particularized tax attributes are taken into consideration.[18] While Highland could estimate the amount of losses it would pass through to Daugherty as a limited partner, and could therefore estimate the potential tax refund of prior taxes paid on a previous year's partnership income, it could not definitively

[18] This would include things like other sources of income, unrelated capital gains and losses from investments, unrelated K-1s from other partnerships, spousal income, estimated tax payments the individual or their spouse made during the year, individual itemized deductions, and a litany of others. Each of these factors can impact an individual's refund or tax owed each year, and no evidence was adduced demonstrating that Highland had visibility into all the factors impacting Daugherty's return.

set forth the amount of the refund Daugherty would get from the IRS. Accordingly, the prospective amount of the refund was an estimate—and "estimates" are, by definition, uncertain.

115. ***Second***, as used in the Compensation Statement, the word "materially" is vague and ambiguous. To create an enforceable obligation, the Court would have to determine, among other things, whether the actual refund Daugherty received from the IRS "deviate[s] "materially" from [the] estimate." Here, the estimate was $1,475,816 (Highland Ex. 13) and the Received Refund was $1,273,930 (JPO ¶ 12), a $201,886 difference. But, as contemporaneous evidence shows, the Compensation Statement estimate was not an estimate of the cash refund that Daugherty could expect, but rather an estimate of the derivative pre-tax equivalent of such a refund. Highland Exs. 39 and 47. In other words, the amount reflected on the Compensation Statement was a "grossed-up" amount of his estimated cash refund of $959,280 to reflect what the refund would effectively be to Daugherty on an "apples-to-apples" basis with other pre-tax compensation amounts. Highland Ex. 47.[19] On that basis, Daugherty received an actual refund greater than the Compensation Statement estimate. Because the language is vague and ambiguous, there is simply no objective way for the Court to determine whether the Received Refund deviates materially from the grossed-up estimate on the Compensation Statement.

116. ***Third***, the phrase "other compensation" is also vague and ambiguous because it had many potential permutations at the time. The Compensation Statement proves the point as it identifies myriad forms of "Earnings and Awards" and "Highland Paid Benefits" that comprise the "Total Compensation Package" that Daugherty received for services he provided to Highland in 2008, including: (a) base salary, (b) tax refund, (c) loan forgiveness, (d) other awards (including

[19] *See also* Highland Ex. 62. Total 2005-2007 income (*see id.* at 3) for Daugherty equals $3,552,890. 2005-2007 income multiplied by 27% equals $959,280. $959,280 "grossed-up" by 35% (*i.e.*, divided by 0.65) equals $1,475,816 – the amount found on the Compensation Statement. This exhibit reflects the actual math behind what is described at Highland Ex. 47 and what appears on the Compensation Statement.

a 401(k) match and a "defined benefit"), and (e) deferred compensation.[20] In all, as reflected on the Compensation Statement, Daugherty was compensated 13 different ways in 2008 alone. Daugherty introduced no evidence as to how the parties intended to revise his compensation to make any adjustment, assuming one was needed, and the Compensation Statement provides no guidance for the Court to pick.

117. ***Fourth***, the phrase "fairly adjusted" is another subjective term susceptible to differing meanings. Indeed, based on the testimony by Daugherty about Highland's financial circumstances in early 2009, it is hard to imagine that Daugherty and Highland would have reached an agreement on what was "fair." And even if they had, based on Daugherty's own testimony as to the constraints Highland's lenders sought to place on Highland, it's unclear what even would have been allowed. Trial Tr. 294:24-295:20. Nevertheless, had the parties intended to reach a binding agreement, they surely would have done so. To create an enforceable agreement, the Court would have to identify on its own what amount would have been deemed "fair" by the parties in February 2009. Daugherty did not offer any testimony or documentary evidence concerning the meaning of "fairly adjusted."

118. ***Finally***, the Compensation Statement omits numerous material terms.[21] For example, the Compensation Statement does not (a) mention what happens if an actual tax refund is received by Daugherty (as it was) but that refund is subject to potential recovery by the IRS (as

[20] Highland Ex. 13. The Compensation Statement also ascribes value to paid benefits as part of Daugherty's "total compensation package", including benefits like life insurance, disability insurance, executive long-term disability, daily catered lunches, "Blackberry" charges, and paid parking.

[21] Daugherty's allegation that the Compensation Statement contained some sort of make-whole is aspirational at best. Daugherty testified that in 2009, Highland was in financial extremis and did not have the wherewithal to make any cash bonus payment, but instead used the 2008 Tax Refund Amount as an alternative to a cash bonus. Trial Tr. at 294:15-295:20. If Highland lacked the resources to make payment at the time, it could not have made a reliable promise to make payment in an unknown amount at some contingent, uncertain, future time. Indeed, at trial, the most Daugherty could come up with to support his vague, ambiguous, and unspecific make-whole contention was "[Dondero] said, I'll take care of you. I'll make it up to you. Not just me, but others." Trial Tr. 296:21-22.

it always is); (b) reference or even consider the possibility of an audit of Highland or Daugherty; (c) provide for what would happen in the event of an audit adjustment affecting Highland or Daugherty; (d) include any timeframe or due date for any potential adjustment of "other compensation"; (e) state that Highland would "adjust other compensation" to account for any interest or penalties arising in connection with any unconsidered audit; (f) state that Highland would "make Daugherty whole" if any portion of the refund was clawed back after the unconsidered audit; (g) state that any obligation Highland purportedly had would continue indefinitely, even after Daugherty voluntarily resigned from Highland (as he did); or (h) contain the words "indemnify," "reimburse," "cover," "back-stop," or any word or phrase of similar import. Contemporaneous evidence actually contradicts Daugherty's theory of endless indemnification: Tax refunds "are not guaranteed, as the IRS still has the authority to audit our claimed losses and resulting refunds due." Highland Ex. 47; *see also* Trial Tr. 296:15-17 (Daugherty: "I was very concerned about blow-back for the IRS, which was definitely going to get, in my opinion, their attention."). It is undisputed that Highland did not (i) even file its 2008 partnership return until nearly seven months *after* giving Daugherty the Compensation Statement (*see* JPO ¶ 40; Daugherty Ex. 57 at 159:10-15; Daugherty Ex. 24), and (ii) learn that the 2008 partnership return was selected for an IRS audit until *March 2010*. Highland Ex. 64 (IRS Notice of Beginning of Administrative Proceeding, dated March 3, 2010).

119. In sum, the Compensation Statement is not an enforceable contract as a matter of law because essential terms to form an agreement are either vague, indefinite, or missing. For this reason alone, the Claim should be disallowed.

C. <u>If Highland Had Obligations Under the Compensation Statement, They Were Fulfilled</u>

120. Even if the Court deemed the unsigned Compensation Statement to be an enforceable contract, Highland satisfied any obligations it may have had because Daugherty

actually received a tax refund from the IRS based on partnership losses passed to him and reflected in the Draft K-1. JPO ¶12; Daugherty Ex. 26 (Draft K-1). The losses passed through to Daugherty as reflected on the Draft K-1 were further validated by the Final K-1 for 2008 that was provided in September 2009 and was materially consistent with the Draft K-1. Daugherty Ex. 26; Daugherty Ex. 24 (Final K-1). Specifically, as reflected on his Final K-1, Daugherty was allocated ordinary business losses by Highland in excess of $4 million, along with other losses that well exceeded the Highland partnership income allocated to Daugherty from 2005-2008. Thus, Highland generated and passed through to Daugherty even more losses than what was originally estimated in the Compensation Statement, which resulted in a greater "after-tax" refund for Daugherty than estimated. In other words, the allocation to Daugherty of over $4 million of actual losses from 2008 reflected in the Final K-1 delivered in 2009, when tax-effected at 35%, generated an even larger refund than was originally estimated and formed the basis of the amount referenced in the Compensation Statement[22].

121. When Daugherty voluntarily terminated his employment with Highland in October 2011 without signing and returning the form of separation agreement attached as Exhibit A (or any other severance agreement), Highland was—pursuant to the express terms of his Employment Agreement—relieved of any "further liability or obligation to [Daugherty] under [the Employment Agreement] or in connection with his/her employment of termination." Highland Ex. 11 § 4.5.

122. Highland, therefore, fully satisfied any obligations it might have had under the Compensation Statement when Daugherty got the Received Refund, and the Employment Agreement cut off any right he may have had to additional amounts.

[22] Highland Exs. 47 and 63

123. Daugherty voluntarily resigned from Highland on September 28, 2011, and his employment terminated on October 31, 2011. Daugherty Ex. 15. Daugherty concedes that the 2008 Tax Refund that he received from Highland was part of his discretionary bonus under the Employment Agreement. Trial Tr. at 300:24-301:1 Daugherty forfeited any right he may have had to a bonus under the Compensation Statement (to the extent he had any) when he voluntarily terminated his employment at Highland.

124. The Employment Agreement states that Daugherty must be employed at the time of payment in order to be eligible for a bonus payment. Section 3.1 of the Employment Agreement provides:

> Salary and Bonus. The annual salary (the ***"Base Salary")*** payable to the Executive during the term of this Agreement shall be an amount determined by the Company (in its sole discretion) and communicated in writing to the Executive, and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon the Executive's performance and shall be determined by the Company in its sole discretion. In addition, the Company ***may*** from time to time award bonuses to the Executive based on such criteria as the Company ***may establish in its discretion***. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. ***The Executive must be employed on the payment date(s) in order to be eligible for the bonus.*** The payment of salary and bonuses shall be subject to all federal, state and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of the Executive's compensation does not constitute a guarantee of employment for any specific period of time.

Highland Ex. 11 § 3.1(a) (emphases added).

125. Daugherty terminated his employment at Highland and therefore was no longer eligible for any additional bonus payment under the Employment Agreement after termination. Daugherty admitted this in writing 15 years ago—literally the day before he resigned in 2011.

Highland Ex. 38 ("I would have to be employed at Highland in order to get any payment of bonus (as has always been the case).").

126. Likewise, as noted above, Section 4.5 of the Employment Agreement addresses Highland's liability to Daugherty in the event Daugherty voluntarily terminates his employment and does not take up work with a "competing business":

> In the event that [Daugherty] terminates his/her Continuous Status as an Executive hereunder and within one (1) year thereafter [Daugherty] is not employed by a Competing Business, [Highland] shall have no further liability or obligation to [Daugherty] under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any accrued but unused vacation time, (iii) any amounts or rights to which [Daugherty] is entitled under any other written agreement with [Highland], (iv) any unreimbursed expenses properly incurred prior to the date of termination, and (v) severance pay equal to the product of
>
> (a) two (2) weeks Base Salary … multiplied by (b) the number of [years of service]… [total severance not to exceed six weeks of Base Salary]... [Daugherty] acknowledges that [Highland's] obligation to pay severance, if any, will arise only … if [Daugherty] signs and returns a duly executed separation agreement and release substantially in the form attached hereto as Exhibit A….***In the event that [Daugherty] declines to sign the separation agreement and release, he/she shall not be entitled to any severance, and [Highland] will have no further liability or obligation to [Daugherty] under this Agreement or in connection with his/her employment or termination***.

Highland Ex. 11 at § 4.5 (emphasis added).

127. Daugherty did not sign the separation and release form and deliver it to Highland and instead elected to counter-sue Highland under the Employment Agreement (and lost against Highland). *See* Highland Ex. 44. Any right Daugherty may have had under the Compensation Statement for any additional consideration terminated with his employment, including his claim for unlimited indemnity or adjustment of other pre-termination compensation.

128. The Court also admitted into evidence an additional document, a form of Separation Agreement, that Daugherty refused to sign following his resignation (the "Draft Separation Agreement"). Daugherty Ex. 44 § 3(b)(ii). The Draft Separation Agreement contains, among other things, the very indemnity promise of payment of taxes, interest, and penalties arising from an audit of Highland's tax returns (the "Rejected Indemnity") that Daugherty now claims is implicitly included in the Compensation Statement. The evidence established that in October 2011, when Daugherty was presented with the Draft Separation Agreement, the IRS was *only* auditing Highland's 2008 return. There would have been no reason to include the Rejected Indemnity in the Draft Separation Agreement if the parties believed it was already included in the Compensation Statement and would survive Daugherty's termination. Daugherty's Reserved Claim is disallowed.

D. Daugherty's Reserved Claim Should Be Disallowed (Mixed Question of Law and Fact)

129. For the reasons set out in Section IV.C., *supra,* Daugherty's Reserved Claim is disallowed.

E. If the Compensation Statement Is an Enforceable Contract, and Highland Has Not Fulfilled Its Obligations Thereunder, Daugherty's Reserved Claim Can Be Estimated in Accordance with Section 502(c) of the Bankruptcy Code (Mixed Question of Law and Fact)

130. If Daugherty's Reserved Claim is allowed, the Court must estimate it under Section 502(c) of the Bankruptcy Code. Under Section 502(c), the Court is required to estimate contingent and unliquidated claims for allowance purposes in the circumstances present here.[23]

[23] Liles-Tims opined that Daugherty's Reserved Claim cannot be estimated until all disputes concerning the 2008 Audit are finally resolved, if then. Trial Tr. at 90:13-91:8. Liles-Tims' opinion cannot be reconciled with Congress' intent as reflected in the plain and unambiguous terms of Section 502(c)—a provision he acknowledges he never considered. *See* Trial Tr. 89:3-11. Indeed, if Daugherty's expert is right, and Daugherty's Reserved Claim cannot possibly be estimated, then the Reserved Claim should be disallowed as too speculative. The Court is bound to implement the court-approved agreement between Highland and its stakeholders (as reflected in the court-approved Plan and Claimant Trust Agreement) concerning the deadline for the resolution of claims and the commencement of dissolution (*i.e.*, August 11, 2026).

The statute provides: "[t]here *shall be* estimated for purposes of allowance ... any contingent or unliquidated claim, the fixing or liquidation of which ... would unduly delay the administration of the case. " 11 U.S.C. § 502(c) (emphasis added)

131. "The public policy underlying claims estimation under the Code is to facilitate the timely administration of the case by making an expeditious assessment of the value of certain claims which would otherwise unduly delay administration." *In re Perry*, 425 B.R. 323, 381 (Bankr. S.D. Tex. 2010). Thus, where, as here, both prerequisites are met, the bankruptcy court does not merely have discretion to estimate—it has an affirmative, mandatory duty to do so. The method by which the bankruptcy court estimates a claim under Section 502(c) is within the court's broad discretion. *See In re Brints Cotton Mktg., Inc.*, 737 F.2d 1338, 1341 (5th Cir. 1984) ("A bankruptcy court's estimation of the value of an unliquidated claim, the liquidation of which would unduly delay the proceedings, may be disturbed on appellate review only in the event of an abuse of discretion.").

F. Failure to Estimate Daugherty's Reserved Claim Before August 11, 2026 Would Unduly Delay the Administration of Highland's Bankruptcy Case

132. Daugherty's Claim, which is both contingent and unliquidated, is the type of claim that, if allowed, must be estimated under Section 502(c). As set forth above, the Plan was confirmed in February 2021 and has been effective since August 2021. Under the Sunset Provisions[24] in the Plan, CTA, Confirmation Order, and related extension orders, Highland must resolve all disputed claims, and the Claimant Trust must commence the Dissolution Process, by August 11, 2026. Trial Tr. at 209:6-211:13. The Reserved Claim is the last unresolved claim against Highland's estate. The parties agree that final resolution of the appeal of the 2008 Tax

[24] *See generally* Highland's *Motion for an Order Further Extending Duration of Trusts* [Bankr. Docket No. 4213] (the "Extension Motion"). This Court granted the Extension Motion and extended the life of the Claimant Trust only until August 11, 2026. Bankr. Docket No. 4298 (the "Extension Order").

Year Audit will not be complete by the court-ordered and Plan-mandated August 11, 2026 deadline to resolve the estate's outstanding claims and commence the Dissolution Process. *See* Trial Tr. at 173:18-174:1 (Liles-Tims), 209:11-210:3 (Seery). Thus, if the Reserve Claim is not estimated by August 11, 2026, Highland will violate the Confirmation Order and the Extension Order, and the administration of the Bankruptcy Case will be unduly delayed. Accordingly, this Court is required to estimate Daugherty's Claim under Section 502(c).

G. If Daugherty's Reserved Claim Can Be Estimated, How Much Is the Reserved Claim Estimated to Be for Purposes of Allowance?

133. *[This section is contingent on the Court's finding that the Reserved Claim should be allowed in an estimated amount.]*

134. The Court has sufficient information to apply a reasonable methodology to estimate Daugherty's Reserved Claim. The only inputs subject to estimation are (a) the amount of adjustment to Highland's 2008 partnership return (the "HCMLP Income Adjustment") and (b) whether any penalty or interest should be included. Once the HCMLP Income Adjustment is estimated, the amount of Daugherty's Reserved Claim is determined by a simple arithmetical formula: (a) HCMLP Income Adjustment x Daugherty's 0.7403% interest in the partnership as of the December 31, 2008 x 35% (the maximum personal federal income tax rate as of December 31, 2008). The product of those amounts represents Daugherty's tax underpayment. Then, if the Court determines that a penalty and interest apply, those amounts are added to the underpayment.

135. Highland has advanced five possible amounts for the HCMLP Income Adjustment: (i) the IRS's original determination $166,332,713 at the conclusion of the 2008 Tax Year Audit (*see* Highland Ex. 65);[25] (ii) the IRS's 2024 $129,528,079 income adjustment offer to

[25] *See* Highland Ex. 15 (Form 4605-A). And note further that while the Form 4605-A contains a $166 million adjustment to the Highland 2008 portfolio income, it also affirms $546 million of 2008 ordinary losses that Highland had reflected

the tax matters partner of a discounted settlement (Highland Exs. 21 and 65 n. 8); (iii) Dondero's 2025 $8 million full settlement offer to the IRS (Highland Exs. 22 and 65 n. 6); (iv) a complete reversal of the 2008 Tax Year Audit with $0.00 HCMLP Income Adjustment; or (v) a mid-point hypothetical discounted settlement based on the simple average of the two extremes: 2008 Tax Year Audit income adjustment and a reversal of the 2008 Tax Year Audit with no adjustment. The results are set forth in the demonstrative exhibit, Highland Ex. 65, which was the subject of extensive testimony at trial.

136. In consideration of the testimony concerning the amounts at issue and the state of the tax matters partner's discussions with the IRS, the Court finds that the $83,166,357 mid-point between (a) the $166,332,713 HCMLP Income Adjustment demanded by the 2008 Tax Year Audit and (b) a reversal of the 2008 Tax Year Audit resulting in a $0.00 HCMLP Income Adjustment constitutes a reasonable basis for estimation of the HCMLP Income Adjustment as it is both (i) the mid-point of the lowest and highest outcomes and (ii) close to the mid-point of the known IRS settlement offers and tax-matters partner counter-offer.

137. An estimated $83,166,357 HCMLP Income Adjustment results in an income adjustment to Daugherty of $615,681 (adjustment (x) 0.7403% partnership interest) with a resulting estimated tax underpayment by Daugherty of $215,488 ((adjustment (x) 0.7403%) (x) 35% (the highest marginal federal tax rate in 2009)). The resulting estimated Reserved Claim, without penalty or interest, is therefore **$215,488**.

138. The Court will not hold Highland liable for any penalties or interest that Daugherty could be required to pay on account of an "underpayment" amount resulting from the HCMLP

on its original tax return. The income adjustment, and the subsequent dispute over the adjustment, affect only roughly 30% of the overall losses Highland reported.

Income Adjustment because (a) the Compensation Statement makes no reference to penalties or interest whatsoever, nor does it provide for any indemnification or similar obligations with respect thereto (and in fact, contemporaneous evidence *(i.e.*, the Draft Separation Agreement, including the Rejected Indemnity (Daugherty Ex. 44 § 3(b)(ii))) contradicts such a notion), (b) Daugherty could have mitigated his damages—including avoiding penalties and interest—by accepting the IRS's proposed adjustments pursuant to Form 870-PT (Highland Ex. 18), and (c) the benefit to Daugherty of the use of the Received Refund substantially exceeds any penalties and interest that would have accrued to the Petition Date.

H. Whether Daugherty's Breach of Contract Counterclaim Is Barred by the Statute of Limitations?

139. Upon review of the law cited by Daugherty, Highland respectfully withdraws its affirmative defense based on the statute of limitations.

I. Highland Fulfilled Its Obligations Under the Books and Records Provision (Mixed Question of Law and Fact)

140. Daugherty bears the burden of proof on this claim. *In re Neria*, No. AP 16-03148, 2022 WL 17254478, at *13 (Bankr. N.D. Tex. Nov. 28, 2022) (Jernigan, J.). The Settlement Agreement contains a Delaware choice of law clause (§ 22). Delaware law therefore controls the Court's interpretation of the Settlement Agreement. *Mozido, Inc. v. Papermaster*, No. A-16-CA-0675-LY, 2017 WL 8161165, at *10 (W.D. Tex. Aug. 14, 2017) (federal court applies forum choice of law rules; Texas law gives effect to contractual choice of law provisions, so Delaware law as chosen law applied to substantive contract law issues and contract interpretation).

141. While Highland offered documentary and testimonial evidence showing that it satisfied its obligations under the Books and Records Provision, Daugherty failed to specifically identify which "books and records" Highland failed to produce or how Highland otherwise breached the Books and Records Provision—and repeatedly failed to contest Highland's

consistent assertions that it had satisfied its obligations under the Books and Records Provision. Daugherty withdrew his claim for damages for breach of the Books and Records Provision and is seeking only specific performance. Trial Tr. at 33:12-16.

142. As set out above, under the Books and Records Provision, Highland agreed to "transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type …. Such transfer will be without any liability or material cost to HCMLP or its affiliates …." Highland Ex. 5 ¶ 8.

143. Daugherty negotiated the Books and Records Provision directly with Highland's Chief Executive Officer, Seery. Daugherty has no recollection about the negotiations of this provision or why the unique phrase "books and records (spreadsheet)" was included. Trial Tr. at 259:17-260:5 (no recollection of meaning of "spreadsheet" or "Highland system"). Seery credibly testified that phrase and accompanying text (a) refers to a specific set of documents and (b) was used to circumscribe the documents Highland would be required to turn over to Daugherty. Trial Tr. at 187:13-189:25.

144. The parties do not disagree that HERA and ERA (a) were shell entities established for the sole purpose of holding limited, passive assets for the benefit of certain then-Highland employees as a compensation vehicle, and (b) never had any of their own employees, offices, servers, email addresses, or operations of any kind. Trial Tr. at 183:17-185:7.

145. On May 5, 2022, shortly after the Court approved the Settlement Agreement, Highland delivered to Daugherty "HERA and ERA books and records" available on Highland's system, together with tax documents, and asserted that, subject only to a final review, it had

fulfilled its obligations under the Books and Records Provision. Trial Tr. at 192:6-193:15; Daugherty Ex. 33.

146. On October 19, 2022, in response to Daugherty's further requests for "back up" information, Highland provided additional information concerning HERA and ERA (including invoices backing up virtually all of HERA's historically recorded expenses reflected in the records previously delivered to Daugherty) and reiterated its position that it had "satisfied all of its obligations under the settlement agreement, and our involvement in HERA/ERA (your entities) will be complete." Daugherty Ex. 34; *see* Trial Tr. at 194:22-196:12. Daugherty admitted that he did not take issue with Highland's position. Trial Tr. at 197:18-22.

147. Daugherty did not raise the issue of "books and records" again until January 30, 2024, when his counsel requested that Highland supplement its document production to include Word, Excel, and PowerPoint documents, email correspondence, and legal communications, among others, all with corresponding metadata, and requesting that Highland employ an outside vendor at its expense to collect and produce the documents. Highland Ex. 53.

148. Klos testified without challenge that Highland had produced all the HERA/ERA legal invoices it could find—over 300—constituting 90% of such invoices. Trial Tr. at 81:6-11.

149. Before Daugherty received a substantive response from Highland, on February 29, 2024, HERA (under Daugherty's control) filed its original complaint against 24 individuals, law firms, and other entities. *See* Trial Tr. at 198:22-199:13; Highland Ex. 54 (York March 1, 2024 email). A few days later, on March 5, 2024, Highland's counsel responded to the January 30, 2024 letter and stood by Highland's prior statements that it had fulfilled its obligations under the Settlement Agreement. Highland Ex. 54.

150. On May 10, 2024, different counsel for Daugherty again demanded a broad set of documents concerning HERA and ERA that had been demanded on January 30, 2024 and again requested Highland's hiring of an outside vendor. Highland Ex 53. Highland responded promptly and again rejected Daugherty's newest demands, reiterating that it believed that it had fulfilled its obligations under the Books and Records Provision and inviting Daugherty to seek judicial relief to finally bring the matter to a close. Daugherty Ex. 35.

151. Daugherty did not seek judicial resolution at that time, notwithstanding that he had commenced an action in federal district court on behalf of HERA and ERA (the "HERA Action"), knowing that Highland would not produce any further documents concerning those entities. *See* Highland Ex. 1 ¶¶ 12-13 (Counterclaim). It was only in October 2025, three and a half years after Highland informed him that it had fulfilled its obligations under the Books and Records Provision, that Daugherty finally sought to enforce his claimed rights—and then, only as a counterclaim.

152. The Court finds that Highland fulfilled its obligations and did not breach the Books and Records Provision. As a matter of Delaware law, the Books and Records Provision is not ambiguous, as the term has a defined meaning in Delaware law:

> Unless there is ambiguity, Delaware courts interpret contract terms according to their plain, ordinary meaning. Where a word has attained the status of a term of art and is used in a technical context, the technical meaning is preferred over the common or ordinary meaning. When established legal terminology is used in a legal instrument, a court will presume that the parties intended to use the established legal meaning of the terms. If a writing is plain and clear on its face, *i.e.*, its language conveys an unmistakable meaning, the writing itself is the sole source for gaining an understanding of intent.

Penton Bus. Media Holdings, LLC v. Informa PLC, 252 A.3d 445, 461 (Del. Ch. 2018) (footnotes, quotation mark, and alterations omitted).

153. To that end, the Delaware Court of Chancery has stated that "the meaning of the term 'books and records' can readily be understood through § 18–305 of the LLC Act and through its corporate law and limited partnership law counterparts, 8 Del. C. § 220 and 6 Del. C. § 17–305, respectively."[26] *Arbor Place, L.P. v. Encore Opportunity Fund, L.L.C.*, 2002 Del. Ch. LEXIS 102, at *7 n.3 (Del. Ch. Jan. 29, 2002) (finding tax returns were within the scope of a contractual "books and records" provision).

154. The Delaware Limited Liability Company Act, 6 Del. C. § 18-305(a), generally identifies the statutory base-level books and records that a Delaware LLC must provide to its managers for inspection:

> 1) True and full information regarding the status of the business and financial condition of the limited liability company;
>
> (2) Promptly after becoming available, a copy of the limited liability company's federal, state and local income tax returns for each year;
>
> (3) A current list of the name and last known business, residence or mailing address of each member and manager;
>
> (4) A copy of any written limited liability company agreement and certificate of formation and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the limited liability company agreement and any certificate and all amendments thereto have been executed;
>
> (5) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and
>
> (6) Other information regarding the affairs of the limited liability company as is just and reasonable.

[26] 8 Del. C. § 220, the corporate books and records provision, sets out defined categories of corporate financial and governance documents and does not have a "just and reasonable" category. The Delaware Limited Partnership Law books and records provision, 6 Del. C. § 17–305, is substantially similar to the Delaware LLC Law's provision.

155. The Transfer Agreements do not describe any "other information" that Highland was required to provide regarding the affairs of HERA and ERA. Daugherty introduced no evidence that might guide an understanding of "other information" potentially included within the Books and Records Provision. He did not put any purported operating agreements, which might shed some light on the information required to be available to members or managers of the companies, into evidence.

156. Given the established and limited meaning of "books and records" in Delaware law and the absence of evidence that the parties intended to give those words some other meaning, Daugherty's contentions in his trial brief that he is entitled to "**all** HERA and ERA materials in Highland's possession" and that he "must receive **everything** Highland possessed **relating to** those entities," (Daugherty Trial Brief ¶ 27 (emphasis added)), are themselves vague and are otherwise not supported by the Books and Records Provision.

157. Instead, as required, Highland provided HERA and ERA's financial, governance and tax records—indeed, Daugherty does not complain that Highland failed to provide information of the types described in items (1) through (5) of the statute—including (as described above), among other things, HERA/ERA's QuickBooks (*i.e.*, financial) information, governance records, and tax returns.

158. The Court also finds that, at Daugherty's request, Highland provided substantial additional business documents to Daugherty. Daugherty has not proven that the totality of the information Highland provided was *not* "just and reasonable," particularly in light of the limiting proviso that information would be provided "without liability or material cost" to Highland. In the absence of the parties' agreement as to the inclusion of specific categories of documents beyond the scope of the matters set out in items (1)-(5) of the Delaware LLC Law, and given

Highland's provision of extensive information beyond that scope, the Court finds that Daugherty's requests for "all" documents or documents that "related to" HERA and ERA were not "just and reasonable" and Highland was under no obligation to satisfy them. The Court thus finds that Highland did not breach the Books and Records Provision.

J. Daugherty Withdrew His Claim for Attorneys' Fees

159. Daugherty has stated that he has withdrawn his claim for attorneys' fees for claimed violation of the stay provision of the Settlement Agreement "without prejudice" in light of the Court's rulings that this matter could go forward. Trial Tr. at 33:17-34:7.

V. CONCLUSION

160. For the reasons set forth above, the Court concludes as follows:

- [If Claim 205 is disallowed] Highland's First Claim for Relief is granted, and Claim 205 is disallowed;
- [If Claim 205 is not disallowed] Highland's First Claim for Relief is denied, and Claim 205 shall be allowed;
- [If Claim 205 is disallowed] Highland's Second Claim for Relief is dismissed as moot;
- [If Claim 205 is not disallowed] On Highland's Second Claim for Relief, for estimation of Claim 205, the Court estimates Claim 205 in the allowed amount of $[215,488];
- On Highland's Third Claim for Relief, for subordination of Claim 205, that Highland has withdrawn the claim and it is therefore denied;
- On Daugherty's Counterclaim Count I, for a determination that Highland has breached the Books and Records Provision of the Settlement Agreement, that Highland has not breached the Settlement Agreement;
- On Daugherty's Counterclaim Count II, that Daugherty's demand for specific performance of the Books and Records Provision of the Settlement Agreement is denied;
- On Daugherty's Counterclaim Count III, Daugherty's demand for attorneys' fees, that Daugherty has withdrawn the claim and it is therefore denied.

Dated: June 5, 2026

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on June 5, 2026, a true and correct copy of the foregoing *Post-Trial Proposed Findings of Fact and Conclusions of Law* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (BWO)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW FILED BY DEFENDANT AND COUNTER-PLAINTIFF PATRICK HAGAMAN DAUGHERTY

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Patrick Hagaman Daugherty ("Daugherty"), Defendant and Counter-Plaintiff in this adversary proceeding, hereby submits these Proposed Findings of Fact and Conclusions of Law.

If any finding of fact is in truth a conclusion of law, or if any conclusions stated is in truth a finding of fact, or if any finding or conclusion is a mixed questions of fact and law, it shall be deemed so and adopted as such.

PROPOSED FINDINGS OF FACT

1. Highland Capital Management, L.P. ("Highland") is a Delaware limited partnership that filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on October 16, 2019. Highland's bankruptcy case is pending in this Court under Case No. 19-34054.

2. On February 22, 2021, the Court entered an order confirming Highland's Fifth Amended Plan of Reorganization (the "Plan"). The Plan became effective on August 11, 2021. (PD-09.)

3. Patrick Hagaman Daugherty is a former senior employee of Highland who was hired on April 3, 1998. During his employment, Daugherty became eligible to participate in Highland's long-term incentive plan and became a profits-interest partner of Highland. (Ex. H-13; Trial Tr. at 246:21-247:10.)

4. On February 27, 2009, Highland provided Daugherty with a Comprehensive Compensation and Benefits Statement for calendar year 2008 (the "Compensation Statement" or "2009 Statement"). The Compensation Statement included, as part of Daugherty's "Earnings and Awards," a line item for a "2008 Tax Refund" in the amount of $1,475,816. (Ex. H-13; Trial Tr. at 219:17-20.)

5. The Compensation Statement contained the following language regarding the 2008 Tax Refund: "Refund is an estimated amount. If actual refund deviates materially from

estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months." (Ex. H-13.)

6. The 2008 Tax Refund was included as part of Daugherty's total "Earnings and Awards" for his service as an employee of Highland during 2008. Highland was unable to pay cash bonuses due to the financial crisis and restrictions imposed by its bank lenders, and instead devised a compensation method through a tax allocation mechanism that would generate a tax refund for senior employees in lieu of a cash bonus. (Trial Tr. at 294:15-295:9.)

7. Daugherty received a tax refund from the IRS on a net basis of approximately $1,157,046 in 2009. (Ex. H-7.)

8. The idea to implement Daugherty's compensation through the tax refund mechanism was not Daugherty's idea. The scheme was devised by James Dondero and Highland's tax personnel. Daugherty testified he would have preferred Highland pay him a cash bonus for 2008. (Trial Tr. at 294:15-23.)

9. In prior Texas state court litigation, Highland used a demonstrative exhibit summarizing Daugherty's compensation that categorized the 2008 Tax Refund under the heading "Bonus." The exhibit listed the identical $1,475,816 amount. James Seery ("Seery"), Highland's current CEO, testified he was not aware of Highland's prior characterization and did not recall seeing the document. (Trial Tr. at 236:13-237:16; Daugherty Ex. 99 (admitted))

10. Seery joined Highland in January 2020 as an independent director. He was not employed at Highland during Daugherty's tenure, was not involved in the preparation of Daugherty's Compensation Statement, and has had no conversations with anyone at Highland about it. He testified he has "no idea" whose idea the tax refund compensation mechanism was. No witness with personal knowledge of the 2008 compensation arrangement testified on behalf of Highland. (Trial Tr. at 177:1-12; *id.* at 212:1-213:7; *id.* at 221:15-21.)

11. On October 31, 2011, Daugherty terminated his employment with Highland. (Trial Tr. at 246:22-23; Ex. H-7.)

12. On or around December 8, 2017, IRS field examiners issued a summary report proposing adjustments to Highland's 2008 partnership tax return (the "IRS Proposed Adjustments"). (Ex. H-20.)

13. On February 3, 2018, Highland sent Daugherty a letter enclosing certain IRS forms, advising that the IRS field examiners had proposed an adjustment. Highland advised Daugherty that "no action on your part is required" and that Highland would "handle the closing conference" and "appeal the proposed adjustment to the IRS Appeals Office." (Ex. H-16.)

14. On July 3, 2018, Highland notified Daugherty that a 60-Day Letter had been issued and that Highland would timely appeal the proposed adjustments to the IRS Independent Office of Appeals. Highland again told Daugherty "you do not need to take any action." (Ex. H-19.)

15. On December 23, 2020, Daugherty filed Proof of Claim No. 205. (*See* Main Bankr. Case No. 19-34054-sgj11 at Doc. No 1533 (authorizing the amended Proof of Claim No. 205, which Daugherty filed on the claims register on December 23, 2020)).

16. On November 21, 2021, Highland and Daugherty executed a Settlement Agreement (the "Settlement Agreement") whereby Daugherty settled his claims against Highland, as more fully set forth in the terms of the Settlement Agreement. The Court entered an order approving the Settlement Agreement on March 8, 2022. The Settlement Agreement resolved all of Daugherty's claims (Claim No. 205) except Daugherty's remaining claim relating to the IRS Audit (the "Reserved Claim"). (Ex. H-5; PD-03.)

17. Under Section 9 of the Settlement Agreement, the parties agreed that "[a]ny litigation by and between the Debtor and Daugherty concerning the validity and amount of the

Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute" (the "Stay Provision"). (Ex. H-5 at § 9.)

18. IRS Audit Dispute is a defined term in the Settlement Agreement, meaning "the dispute between the Debtor and the IRS…"

19. Daugherty's Reserved Claim was reserved at an amount of $2,650,353 consisting of the full amount of the 2008 Refund ($1,475,816) plus estimated interest of $1,174,537. This amount was estimated as of October 23, 2020. The Debtor reserved all rights to assert any and all defenses to the Reserved Claim. (Ex. H-5 at § 9; PD-05 at ¶ 9.)

20. On May 2, 2025, Highland filed the present adversary complaint seeking (1) disallowance of the remainder of Claim No. 205, (2) estimation of any allowed portion under 11 U.S.C. § 502(c), or (3) subordination of any allowed portion under 11 U.S.C. § 510(b). (PD-01.)

21. On April 10, 2026, Highland withdrew its third cause of action—subordination under § 510(b)—with prejudice through the parties' proposed joint pretrial order. [Doc. 100 at p. 19-20]. On April 13, 2026, the Court entered the parties' joint pretrial, including Highland's withdrawal of its subordination claim with prejudice. [Doc. 101 at p. 19-20].

22. On July 13, 2021, Strand Advisors, Inc., the Tax Matters Partner for Highland, notified Daugherty that the IRS Appeals Office had scheduled an Appeals hearing for September 14-16, 2021. (Expert Report of Liles-Tims at ¶ 21.)

23. On May 31, 2024, Highland's Tax Matters Partner submitted a counteroffer to the IRS Office of Appeals as part of mediation procedures, confirming continued active dispute of the IRS Audit. (Expert Report of Liles-Tims at ¶ 24.)

24. On June 26, 2024, Highland's Tax Matters Partner met with the IRS Office of Appeals team to further discuss settlement positions and narrow outstanding issues. (Expert Report of Liles-Tims at ¶ 25.)

25. On February 28, 2025, Highland's Tax Matters Partner's counsel submitted a revised settlement counteroffer to the IRS Office of Appeals and renewed its request for post-Appeals mediation, confirming that no final IRS determination had yet been made. (Expert Report of Liles-Tims at ¶ 26.)

26. As of April 16, 2026, the date of the final hearing in this adversary proceeding, Daugherty has received no notice of a final settlement or resolution of the IRS Audit.

27. As of the date of final hearing in this adversary proceeding, it is unknown when, if, or how the 2008 IRS Audit will be finally resolved.

28. Before the Plan's effective date, Highland's independent board—including Seery—controlled Strand Advisors and had the legal authority to resolve the IRS audit dispute. Highland chose not to accept or settle the IRS' proposed adjustments. Seery testified that Highland "certainly would have been sued by Mr. Dondero" and that he did not think Highland "ever thought of" accepting the audit result. After the effective date, control of Strand reverted to Dondero. Daugherty has never had authority to resolve the IRS audit at the partnership level. (Trial Tr. at 227:23-228:19; *id.* at 244:10-16.)

29. Daugherty's "damage calculation cannot be made until Highland's Tax Matters Partner resolves the IRS Audit" because the audit remains ongoing and unresolved, with no expected timeline for completion. (Trial Tr. at 89:19-23.)

30. Without a final IRS determination, the underlying inputs necessary for a reliable damage calculation do not exist.

31. T.J. Liles-Tims, Daugherty's expert witness, identified the following variables that remain unknown and prevent a reliable estimate: (a) the final adjustment type (income, deductions, etc.); (b) the total partnership adjustment amount; (c) Daugherty's partner allocation percentage for each adjustment item; (d) Daugherty's marginal tax rate at the time of any assessment; (e) the partnership basis impact; (f) the applicability and amount of any

penalties; and (g) the amount of interest calculated based on the underpayment amount and time outstanding. (Trial Tr. at 88-90.)

32. Highland has had "no idea" of Daugherty's tax attributes since 2012 and had no knowledge of whether he invested the refund money. (Trial Tr. at 82:22-83:9 (Court: "[…]you have no idea whether he invested that money or what his investments have or haven't done?" Klos: "Correct." Court: "[…]Highland would have no idea what his tax attributes are, whether he has losses or gains or income?" Klos: "…[Y]es, I don't have knowledge of those periods.").)

33. At the November 17, 2020 claim estimation hearing, Highland's own counsel argued that Daugherty's tax claim was "contingent" and that "there is no definite liability to the IRS." The Court agreed that the tax refund claim was "at best, contingent" and declined to allow it for voting purposes. (PD-36 at 17:15-18:5.)

34. Under the Plan and Claimant Trust Agreement, Class 10 and Class 11 interests cannot vest until the Claimant Trustee certifies to the Bankruptcy Court that all holders of Class 8 claims have been paid indefeasibly in full, including all accrued and unpaid post-petition interest at the Federal Judgment Rate from the Petition Date. Daugherty's Reserved Claim is a Class 8 claim entitled to such interest. To date, the Claimant Trustee has not filed a certification that all Class 8 claims have been paid. (PD-09 at p. 44; PD-09 at p. 102 (Plan § 27); PD-10 at § 1.1(h); PD-10 at § 5.1(c).)

35. Seery testified that upon dissolution of the Claimant Trust, residual funds flow to an indemnity trust that Seery solely administers. Once Seery determines no further indemnification obligations exist, remaining funds—approximately $45 million—will be distributed to Hunter Mountain Investment Trust, a Class 11 holder. Daugherty's unresolved Reserved Claim is a Class 8 unsecured claim senior to those Class 10 and Class 11 interests. (Trial Tr. at 241:17-243:11.)

36. Under Section 8 of the Settlement Agreement, Highland agreed to "transfer its interests in HERA and ERA to Daugherty." The Settlement Agreement further provided that "[s]uch transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system." (Ex. H-5 at § 8; Trial Tr. at 185:8-14.)

37. The stated purpose of the transfer under Section 8 was "[t]o facilitate recovery of such potential claims" belonging to HERA and ERA against persons or entities not released under the Settlement Agreement. (Ex. H-5 at § 8.)

38. Despite repeated demands, Highland has refused to produce all HERA and ERA books and records in its possession. Highland's position is that emails do not constitute "books and records" and that it has fulfilled its obligations. Daugherty and HERA dispute this position. (Trial Tr. at 193:12-194:4.)

39. Neither HERA nor ERA maintains its own email accounts or servers. Rather, all documents and communications related to HERA and ERA are in Highland's possession, custody, or control.

40. HERA is currently engaged in litigation with James Dondero and others in the case styled Highland Employee Retention Assets LLC v. James Dondero, et al., Civil Action No. 3:24-cv-00498-K, pending in the United States District Court for the Northern District of Texas. That litigation centers on Dondero's mismanagement of monetary contributions that Highland made on behalf of its employees into retention vehicles managed by HERA. (Daugherty Counterclaim at ¶ 13.)

41. Daugherty performed and satisfied all obligations that the Settlement Agreement imposed upon him. Highland does not contest Daugherty's full performance of the Settlement Agreement. (Joint Pretrial Order.)

42. On or about October 19, 2022, Highland's counsel communicated that Highland considered its obligations under Section 8 complete, stating: "Upon transmission of the

information described above, [Highland] will have satisfied all of its obligations under the settlement agreement, and our involvement in HERA/ERA (your entities) will be complete." Highland nonetheless refused to produce certain documents that Abrams & Bayliss — not Highland — ultimately produced to HERA in connection with HERA's litigation against Dondero, Okada, Ellington, and others. These documents fall within Highland's "interests" in HERA and ERA. (Ex. H-3; Main Bankr. Case No. 19-34054, Doc. No. 4449 at Ex. B, Decl. of P. Daugherty at ¶¶ 2–3; Ex. B-1; Ex. B-2.)

PROPOSED CONCLUSIONS OF LAW

1. The Fifth Circuit has held when analyzing 11 U.S.C. § 502, "a party correctly filing a proof of claim is deemed to have established a prima facie case against the debtor's assets." *In re Fid. Holding Co., Ltd.,* 837 F.2d 696, 698 (5th Cir. 1988). Under Section 502(a) of the Code, a proof of claim filed pursuant to Section 501 "is deemed allowed, unless a party in interest…objections." 11 U.S.C. § 502(a).

2. Upon the filing of an objection, the burden shifts to the debtor as the objecting party. Once the objection is on file, the objecting party must "produce evidence tending to defeat the claim that is of a probative force equal to that of the creditor's proof of claim." *In re Simmons*, 765 F.2d 547, 552 (5th Cir. 1985). And if the objecting party does not produce sufficient evidence, "the claimant will prevail." *In re Fid. Holding Co., Ltd*., 837 F.2d at 698. It is, therefore, critical to appreciate that "mere allegations unsupported by evidence are insufficient to rebut the prima facie case." *Matter of TransAmerican Natural Gas Corp*., 978 F.2d 1409, 1416 (5th Cir. 1992). Only if the objecting party presents sufficient evidence to rebut the claimant's prima facie case does the ultimate burden shift back to the claimant.

3. When the ultimate burden rests with the claimant, the claimant must merely prove the merits of its claim by a preponderance of the evidence. *See In re Fid. Holding Co., Ltd*., 837 F.2d at 698.

4. The parties do not dispute that Texas law governs Daugherty's Reserved Claim. In Texas, a unilateral contract is "created by the promisor promising a benefit if the promisee performs. The contract becomes enforceable when the promisee performs." *Vanegas v. American Energy Services*, 302 S.W.3d 299, 302 (Tex. 2009) (citing *Plano Surgery Ctr. v. New You Weight Mgmt. Ctr.*, 265 S.W.3d 496, 503 (Tex. App.—Dallas 2008, no pet.)). In the employment context, a unilateral contract is created when "an employer promises an employee certain benefits in exchange for the employee's performance, and the employee performs." *City of Hous. v. Williams*, 353 S.W.3d 128, 136 (Tex. 2011). For instance, in *Vanegas*, the supreme court held that a unilateral contract could be formed when an employer offered to share proceeds of a sale of the company with employees if the employees stayed employed until the sale occurred. 302 S.W.3d at 303. In that case, the supreme court held that "[w]hether the promise was illusory at the time it was made is irrelevant; what matters is whether the promise became enforceable by the time of the breach." *Id.* (quoting 2 Joseph M. Perillo & Helen Hadjiyannakis Bender, *Corbin on Contracts* § 6.2 (1995)) ("[U]nilateral contract analysis is applicable to the employer's promise to pay a bonus or pension to an employee in case the latter continues to serve for a stated period.").

5. The Compensation Statement constitutes an enforceable unilateral contract between Highland and Daugherty.

6. It is well-established law in Texas that "instruments pertaining to the same transaction may be read together to ascertain the parties' intent, even if the parties executed the instruments at different times and the instruments do not expressly refer to each other." *Fort Worth Indep. Sch. Dist. v. City of Fort Worth*, 22 S.W.3d 831, 840 (Tex. 2000) (internal citations omitted); *see also Jim Walter Homes, Inc. v. Scheunemann*, 668 S.W.2d 324, 327 (Tex. 1984) (same); *Jones v. Kelley*, 614 S.W.2d 95, 98 (Tex. 1981) (same). "[A] court may determine, as a matter of law, that multiple documents comprise a written contract." *Id.* (citing

Jones, 614 S.W.2d at 98; *Miles v. Martin*, 321 S.W.2d 62, 65 (Tex. 1959); *Braniff Inv. Co. v. Robertson*, 81 S.W.2d 45, 47 (Tex. 1935)).

7. The supreme court has stated that together, the documents must define the "essential terms" of the contract, including "'the time of performance, the price to be paid, … [and] the service to be rendered.'" *City of Hous.*, 353 S.W.3d at 139–40 (citing *Kirby Lake Dev. Ltd. v. Clear Lake City Water Auth.*, 320 S.W.3d 829, 838 (Tex. 2010); *Liberto v. D.F. Stauffer Biscuit Co.*, 441 F.3d 318, 324 (5th Cir. 2006)). In the context of employment agreements, "typical essential terms include, among others, 'compensation, duties or responsibilities.'" *Id.* (citing *Martin v. Credit Prot. Ass'n Inc.*, 793 S.W.2d 667, 669 (Tex. 1990)). Courts applying Texas law must determine whether the referenced documents, read together, "demonstrate a manifestation of [the employer's] intention to be bound to provide [the referenced benefits.]" *Parvis-Khyavi v. Alcon Laboratories, Inc.*, 395 S.W.3d 376, 382 (Tex. App. —Dallas 2013, pet. denied) (citing *City of Hous.*, 353 S.W.3d at 138).

8. Here, the applicable documents between Highland and Daugherty are the Amended Employment Agreement and the Compensation Statement. The Amended Employment Agreement provides, at Article III, subsection (a):

> The annual salary (the "**Base Salary**") payable to [Daugherty] during the term of this Agreement shall be an amount determined by the Company (in its sole discretion) and communicated in writing to [Daugherty], and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon [Daugherty's] performance and shall be determined by the Company in its sole discretion. In addition, the Company may from time to time award bonuses to [Daugherty] based on such criteria as the Company may establish in its discretion. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. [Daugherty] must be employed on the payment date(s) in order to be eligible for the bonus. The payment of salary and bonuses shall be subject to federal, state, and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of [Daugherty's] compensation does not constitute a guarantee of employment for any specified period of time.

(Ex. H-11, p. 4, art. III.1(a) (emphasis in original)). In the Amended Employment Agreement, Highland sets out specific conditions for Daugherty's eligibility for bonus compensation, and the services to be rendered by Daugherty. (*See id.* at p. 3, art. II.1-2). Additionally, Article 3(a) of the Amended Employment Agreement states that, on an annual basis, Highland was to determine Daugherty's annual salary and bonus compensation for each year and communicate the same "in writing" in the annual Compensation Statement. Thus, the Amended Employment Agreement, read alone, does not establish Highland's "intention to be bound to provide" bonus compensation to Daugherty. *Alcon Laboratories*, 395 S.W.3d at 382.

9. However, the Compensation Statement, when read in conjunction with the Employment Agreement, established a binding requirement on Highland to guarantee Daugherty the compensation set forth therein, including the 2008 Tax Refund and the promise to "fairly adjust" other compensation if the refund deviated materially from the estimate.

10. Daugherty possesses an allowable claim against Highland. Daugherty's Reserved Claim is properly allowed under 11 U.S.C. § 502(a), as it was timely filed in Proof of Claim No. 205 and is supported by the Compensation Statement's express promise that "[i]f actual refund deviates materially from estimate, other compensation will be fairly adjusted." Highland has failed to carry its burden to demonstrate that the claim should be disallowed. (Ex. H-13; Ex. H-5 at § 9.)

11. Daugherty's tax liability arising from the 2008 IRS Audit of Highland's partnership tax return is uncertain. The IRS has not made a final determination with respect to the audit. Highland's Tax Matters Partner continues to actively negotiate with the IRS Office of Appeals, most recently submitting a revised settlement counteroffer on February 28, 2025. The ultimate amount of any tax liability, including penalties and interest, cannot be determined or reasonably estimated until the audit is resolved.

12. The Court cannot reliably estimate Daugherty's claim under 11 U.S.C. § 502(c) because of the uncertainty surrounding the IRS Audit. Section 502(c) provides that a claim "shall be estimated" only when "the fixing or liquidation of which ... would unduly delay the administration of the case." However, estimation is not appropriate where doing so would result in unreliable speculation rather than a reasonable approximation of the claim's value. *See In re Dow Corning Corp*., 211 B.R. 545, 562 (Bankr. E.D. Mich. 1997).

13. The failure to estimate Daugherty's claim does not constitute "undue delay" within the meaning of Section 502(c). The Court has recognized that estimation is discretionary, not mandatory, and that courts may refrain from estimating a claim where: (a) the delay would not be "undue"; (b) estimation is not necessary for the plan of reorganization; and (c) estimation would duplicate subsequent proceedings. *In re Dow Corning Corp*., 211 B.R. at 562–66; *In re Continental Airlines, Inc.,* 57 B.R. 842, 844 (Bankr. S.D. Tex. 1985).

14. The equities weigh in favor of leaving Daugherty's Reserved Claim open until the IRS concludes its audit. If the Court were to estimate Daugherty's claim and that estimated value were less than Daugherty's actual liability as a result of the IRS audit, Daugherty would be without recourse against Highland for money he is owed. As an individual taxpayer with potentially millions of dollars at stake, a premature estimation would be substantially prejudicial to Daugherty.

15. The Stay Provision in the Settlement Agreement provides that litigation concerning the Reserved Claim "shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute." The IRS has not made a final determination. While the Court struck the Stay Provision under Rule 60(b)(6), this does not eliminate the underlying equitable considerations that favor deferring estimation until a final determination exists.

16. Daugherty's Class 8 claim accrues post-petition interest at the Federal Judgment Rate under the Plan and Claimant Trust Agreement. Any estimation that fails to account for

accruing interest as a result of the IRS Audit—and thus accruing liability to Daugherty depending on the ultimate resolution of the IRS Audit—understates Highland's obligation and overstates the residual available for Class 10 and Class 11 interest holders—including Hunter Mountain Investment Trust—cannot vest until such interest is paid. Any estimation that fails to account for accruing interest understates Highland's obligation, overstates the residual available for distribution, and contravenes the confirmed Plan's distribution waterfall. (PD-09 at p. 44; PD-10 at §§ 1.1(h), 5.1(b)-(c).)

17. Highland had the legal authority to resolve the IRS audit through its control of Strand Advisors before the Plan's effective date but chose not to do so. Highland cannot create uncertainty through its own inaction and then invoke that uncertainty to compel premature estimation to Daugherty's detriment.

18. The distribution waterfall further supports the inequity of premature estimation. If Daugherty's Class 8 claim is underestimated, the difference inures to the benefit of Class 10 and Class 11 interest holders—specifically Hunter Mountain Investment Trust, controlled by Dondero—through residual distributions from the indemnity trust that Seery solely administers. Estimation thus risks transferring value from a senior unsecured creditor to subordinated interests controlled by the individual whose decisions as tax matters partner perpetuate the very uncertainty Highland invokes.

19. Highland breached the Settlement Agreement by failing to transfer all of its "interests" in HERA and ERA to Daugherty, including the full scope of books and records. The Settlement Agreement required Highland to "transfer its interests in HERA and ERA to Daugherty" and stated that "[s]uch transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system." (Ex. H-5, § 8).

20. The term "interests" referenced above is a broad and undefined term encompassing all ownership rights, property, data, documents, and records, including emails,

relating to HERA and ERA. The word "include" signals that books and records are one component of the broader "interests" being transferred, not the only thing being transferred. Courts will enforce the plain, ordinary meaning of clear and unambiguous language. *See generally Vill. Practice Mgmt. Co. LLC v. West*, 342 A.3d 295, 314 (Del. 2025).

21. The stated purpose of Section 8 in the Settlement Agreement—"to facilitate the recovery of potential claims"—requires a broad interpretation of Highland's "interests." Daugherty needs complete access to all HERA and ERA materials in Highland's possession to meaningfully pursue those claims. A narrow reading would frustrate the express purpose the parties articulated.

22. Specific performance is the appropriate remedy for Highland's breach of Section 8 of the Settlement Agreement. Specific performance is "the decisively preferable remedy" when a party breaches a contract involving unique subject matter and damages cannot be reasonably calculated. *In re IBP, Inc. S'holders Litig*., 789 A.2d 14, 22 (Del. Ch. 2001). The books and records at issue are not fungible assets that can be replaced or monetized.

23. To obtain specific performance under Delaware law, a plaintiff must prove by clear and convincing evidence: (1) a valid contract exists, (2) the plaintiff is ready, willing, and able to perform, (3) a legal remedy would be inadequate, and (4) the balance of equities tips in favor of the party seeking specific performance. *Am. Healthcare Admin. Servs., Inc. v. Aizen*, 285 A.3d 461, 495 (Del. Ch. 2022). Each element is satisfied here. The validity of the Settlement Agreement is undisputed, and Highland does not contest Daugherty's full performance. (Joint Pretrial Order.) The books and records are the sole repository of information about HERA and ERA's operations and potential claims, making specific performance particularly appropriate where the subject matter is unique. *Osborn ex rel. Osborn v. Kemp*, 991 A.2d 1153, 1161–62 (Del. 2010); *see also IBP*, 789 A.2d at 82–83.

24. A legal remedy would be inadequate because any damages calculation would be speculative — the HERA litigation is at the motion to dismiss stage with no outcome in sight. Specific performance "entirely eliminat[es] the need for a speculative determination of damages." *IBP*, 789 A.2d at 83. The balance of equities tips decidedly in Daugherty's favor. Daugherty comes to this Court with clean hands. *Osborn*, 991 A.2d at 1162. The relief is discrete and readily enforceable — the Court need only order Highland to produce records it already possesses — and Highland can demonstrate no hardship beyond mere inconvenience. *Id.*; *26 Capital Acquisition Corp. v. Tiger Resort Asia Ltd.*, 309 A.3d 434, 466–72 (Del. Ch. 2023).

25. Delaware courts "read a contract as a whole and give each provision and term effect, so as not to render any part of the contract mere surplusage." *Osborn*, 991 A.2d at 1159. Highland's position — that it may retain HERA and ERA's books and records while claiming to have transferred the relevant interests — eviscerates the express purpose of Section 8. *See Lee Builders, Inc. v. Wells*, 92 A.2d 710, 715 (Del. Ch. 1952) (granting specific performance where parties' intent was obvious despite arguments about contractual uncertainty). Denying specific performance would defeat the very purpose for which the parties agreed to Section 8.

26. Highland is the sole custodian of the HERA and ERA books and records, as well as documents and communications, that it agreed to turn over to Daugherty. If the Court does not order Highland to comply with the terms of the Settlement Agreement and turn over all of the books and records, documents and communications, Daugherty will be irreparably harmed and HERA will be unable to adequately pursue its litigation against Dondero, Okada, Ellington, and others.

27. Daugherty's claim for breach of the books and records provision in the Settlement Agreement is timely. Federal courts located in Texas apply Texas' four-year statute of limitations to breach of contract claims. Federal courts apply (a) the substantive law of the

contractually chosen state and (b)Texas procedural law to procedural matters. *See Cypress/Spanish Ft. I, L.P. v. Prof. Serv. Indus., Inc.*, 814 F. Supp. 2d 698, 708 (N.D. Tex. 2011). Texas considers statutes of limitation procedural, not substantive. *See id.*; *see also Baker Hughes, Inc. v. Keco R. & D., Inc.*, 12 S.W.3d 1, 4 (Tex. 1999); *Hunt Oil Co. v. Live Oak Energy, Inc.*, 313 S.W.3d 384, 387 (Tex. App.—Dallas 2009). The statute of limitations in Texas for breach of contract claims is four years. Tex. Civ. Prac. & Rem. Code §§ 16.004, 16.051; *Eagle Oil & Gas Co. v. TRO-X, L.P.*, 619 S.W.3d 699, 707 (Tex. 2021). The Court entered the order approving the parties' Settlement Agreement in March 2022, and Daugherty filed his breach of contract claim on October 3, 2025 — less than four years later.

28. In adversary proceedings, bankruptcy courts engage in the same choice-of-law analysis as a federal district court. *In re Soporex, Inc.*, 446 B.R. 750, 760–61 (Bankr. N.D. Tex. 2011); *In re Vantage Benefits Admins., Inc.*, No. 18-31351-SGJ-7, 2024 WL 3842796, at *17 (Bankr. N.D. Tex. Aug. 14, 2024). Regardless of the Delaware choice-of-law provision, Texas' four-year statute applies. *See Cypress/Spanish*, 814 F. Supp. 2d at 709; *Hunter v. Berkshire Hathaway, Inc.*, No. 4:14-CV-663-Y, 2017 WL 11679602, at *4 (N.D. Tex. May 31, 2017); *Albritton v. Acclarent, Inc.*, No. 3:16-cv-03340-M, 2017 WL 6628122, at *6 (N.D. Tex. Dec. 27, 2017).

29. The parties executed the Settlement Agreement on November 22, 2021 — also less than four years before Daugherty's October 2025 claim. Still, even if Delaware's three-year statute of limitations applied, Daugherty's claim would be timely. In Delaware, a cause of action accrues when the contract is broken. *Allstate Ins. Co. v. Spinelli*, 443 A.2d 1286, 1292 (Del. 1982); *Lehman Bros. Holdings Inc. v. Kee*, 268 A.3d 178, 185 (Del. 2021). At the earliest, Highland's breach accrued on October 19, 2022 — the date Highland communicated that it had completed its performance when it had not — and Daugherty filed less than three years later. (Ex. H-3.)

30. Additionally, Daugherty's claim for breach of the books and records provision was brought as a counterclaim in this adversary proceeding. Daugherty's claim is also timely filed under Texas Civil Practice and Remedies Code § 16.069 because Daugherty filed his counterclaim on or before his answer was due.

Dated: June 5, 2026.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 5th day of June 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 24, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

JUDGMENT

Consistent with the Memorandum Opinion issued on this date, it is hereby

ORDERED, ADJUDGED, AND DECREED that Patrick Hagaman Daugherty's ("Daugherty") Reserved Claim[1] is disallowed; it is further

ORDERED, ADJUDGED, AND DECREED that Highland Capital Management, L.P. ("Highland") did not breach its obligations under the Settlement Agreement between Highland and Daugherty dated November 22, 2021, and approved by this Court on March 8, 2022 (the "Settlement Agreement"); it is further

ORDERED, ADJUDGED, AND DECREED that Daugherty's request for specific performance of the Settlement Agreement is denied; and it is further

ORDERED, ADJUDGED, AND DECREED that any relief not expressly granted herein is denied.

This Judgment disposes of all parties and all claims in this adversary proceeding.

End of Judgment

[1] "Reserved Claim" has the same meaning given to it in the Court's Memorandum Opinion.

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 24, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

MEMORANDUM OPINION

The Court issues this Memorandum Opinion in the action between Plaintiff and Counter-Defendant, Highland Capital Management, L.P. ("Highland"), and Patrick Hagaman Daugherty ("Daugherty"), Defendant and Counter-Plaintiff.

Highland contests the validity of Daugherty's proof of claim filed in its related bankruptcy case and seeks to disallow the claim. In the alternative, Highland asks the Court to estimate Daugherty's contingent claim under 11 U.S.C. § 502(c) for purposes of making a distribution under Highland's confirmed chapter 11 plan.[1] Daugherty's counterclaims allege that Highland breached a prior settlement agreement between the parties, in which Highland agreed to turnover the Highland Employee Retention Assets LLC ("HERA") and ERA Management, LLC ("ERA") books and records. Daugherty seeks specific performance of the settlement agreement.[2] Trial was held on April 17, 2026, after which the parties submitted proposed findings of fact and conclusions of law.

The Court's findings and conclusions are based upon the record before the Court and are issued under Rule 52 of the Federal Rules of Civil Procedure, made applicable in this adversary proceeding by Rule 7052 of the Federal Rules of Bankruptcy Procedure.

The issues here raise mixed questions of fact and law. Accordingly, where appropriate, findings of fact may be considered conclusions of law and conclusions of law may be considered findings of fact.

[1] Prior to trial, Highland withdrew its claim for subordination under 11 U.S.C. § 510(b). Unless otherwise stated, all "§" or "section" references are to Tile 11 of the United States Code (the "Bankruptcy Code").

[2] Prior to trial, Daugherty withdrew his claim for attorney's fees.

FINDINGS OF FACT

Highland's Bankruptcy Case and Daugherty's Reserved Claim

1. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code commencing the above-captioned bankruptcy case. Case No. 19-34054, Dkt. No. 1. In Highland's bankruptcy case, Daugherty filed several proofs of claim that culminated in proof of claim number 205, which is subject to the parties' dispute in this adversary proceeding. Dkt. No. 101, ¶ 2.[3]

2. On November 24, 2020, this Court entered an Order temporarily allowing Daughtery's claim in the amount of $9,134,019.00 for voting purposes only. Case No. 19-34054, Dkt. No. 1474. Then, on February 22, 2021, this Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief*.[4] *Id.*, Dkt. No. 1943. Highland's confirmed plan became effective on August 11, 2021, at which time a claimant trust was established over which James P. Seery, Highland's Chief Executive Officer, was appointed trustee. *Id.*, Dkt. Nos. 1808, 2700.

3. Following confirmation, on November 22, 2021, Highland and Daugherty executed a settlement agreement. Dkt. No. 101, ¶ 19. Among other things, the settlement agreement resolved Daugherty's claims against Highland's bankruptcy estate, save for one, and required Highland to turnover HERA and ERA's

[3] Unless otherwise stated, all "Dkt. No." references herein are to the above-captioned adversary proceeding.

[4] The Confirmation Order was subsequently modified for reasons irrelevant to this dispute. *See* Case No. 19-34054, Dkt. No. 4378.

books and records to Daugherty. Highland Ex. 5; Daugherty Ex. 3. Below are provisions from the settlement agreement relevant to this dispute:

> 8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

Highland Ex. 5, ¶¶ 8, 9; Daugherty Ex. 3, ¶¶ 8, 9. The Court entered an order approving the settlement agreement on March 8, 2022, which allowed Daugherty's proof of claim number 205 in the amounts set forth in the settlement agreement, subject to further resolution of the Reserved Claim.[5] Case No. 19-34054, Dkt. No. 3298.

4. On May 2, 2025, Highland commenced this adversary proceeding by filing its Complaint seeking to disallow the Reserved Claim or, alternatively,

[5] "Reserved Claim" has the meaning given to it by the Parties in the Settlement Agreement. Highland Ex. 5, ¶ 9; Daugherty Ex. 3, ¶ 9.

requesting that the Court estimate the Reserved Claim.[6] Dkt. No. 1. On June 4, 2025, Daugherty filed his *Motion to Dismiss* Highland's complaint. Dkt. No. 5.

5. On July 18, 2025, Highland filed its *(A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* ("Cross Motion"). Dkt. No. 10. The Cross Motion sought to modify the order approving the settlement agreement to strike the so-called "Stay Provision." Such relief would permit Highland to proceed with its claim-disallowance proceeding against Daugherty despite there being no "final determination with respect to the IRS Audit Dispute." The Court granted the Cross Motion on September 5, 2025, and modification of the settlement order remains subject of Daugherty's appeal. Dkt. Nos. 23, 25.

6. Pursuant to the settlement agreement, Daugherty's Reserved Claim is fully reserved in an account held by the Claimant Trust with a balance equal to $2,650,353.00, the amount of the Reserved Claim asserted by Daugherty in his proof of claim. Daugherty Ex. 94, ¶ 1. At trial, Mr. Seery testified that this amount remains in a claimant trust account and is the last unresolved claim of the Highland bankruptcy estate. Trial Tr. at 241:21–242:3. Any distribution made to Daugherty on account of the Reserved Claim must occur prior to distributions to Highland's partnership interests—Classes 10 and 11. Trial Tr. at 240:23–243:11.

[6] *See supra* n.1 regarding Highland's claim for subordination.

Daugherty's Employment at and Separation from Highland

7. Daugherty was employed by Highland from 1998 to his voluntary resignation in 2011. Dkt No. 101, ¶ 8, 14. On December 31, 2004, Highland and Daugherty entered into an Amended Employment Agreement ("Employment Agreement"), which, among other things, described Daugherty's compensation and benefits. Highland Ex. 11. As 'Salary and Bonus" the Employment Agreement states the following:

> (a) Salary and Bonus. The annual salary (the "***Base Salary***") payable to the Executive during the term of this Agreement shall be an amount determined by the Company (in its sole discretion) and communicated in writing to the Executive, and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon the Executive's performance and shall be determined by the Company in its sole discretion. In addition, the Company may from time to time award bonuses to the Executive based on such criteria as the Company may establish in its discretion. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. The Executive must be employed on the payment date(s) in order to be eligible for the bonus. The payment of salary and bonuses shall be subject to all federal, state and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of the Executive's compensation does not constitute a guarantee of employment for any specific period of time.

Id. ¶ 3.1(a). The Employment Agreement also includes a Form of Separation Agreement and Release, which an employee *may* sign at the termination of their employment. If an employee does not sign the separation agreement, then the Employment Agreement states that the employee is not entitled to severance, and Highland "will have no further liability or obligation to the [employee] under [the Employment Agreement] or in connection with [their] employment or termination." *Id.* ¶¶ 4.4–4.6.

8. Consistent with the Employment Agreement, Daugherty was provided with a Comprehensive Compensation and Benefits Statement ("2009 Compensation

Statement") dated February 27, 2009. Highland Ex. 13. Therein, Daugherty's 2008 earnings and awards totaled $3,594,136, of which $1,475,816 was allocated as a 2008 tax refund.[7] *Id.* Stated with the 2008 tax refund line item is the following language:

> Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

Id. This language forms the basis for Daugherty's Reserved Claim against Highland's bankruptcy estate.

9. In an email from Scott Wilson, Highland's Principal, Internal Strategy, dated February 26, 2009, to Brian Collins and Patrick Boyce, Mr. Wilson included an attachment with draft questions and answers related to the 2008 tax refund. Highland Ex. 47. Of note, the following questions included draft answers:

> **Why would you consider the tax refund as part of compensation? Isn't the refund in my name?**
>
> When you paid taxes in 2006 and 2007 that are now potentially subject to a refund, you received a distribution from Highland to pay those taxes. Now we believe that the taxes were overpaid, due to subsequent losses, and as such, Highland distributed an excessive amount to you to pay the taxes. Accordingly, any difference, now or then, ends up being extra compensation to you, and keeping the refund represents an extra compensation to you from Highland **(NOTE: this is by no means well researched legal argument. The Tax Dept. is investigating various legal and tax rationale in this matter, and we can discuss various options on this argument further in a verbal conversation)**
>
> **What would happen if my actual tax refund is different from this estimate, or if the timing is significantly delayed? Would I be "trued-up" if is it less? What if it is more?**

[7] With the inclusion of "Highland Paid Benefits," Daugherty's compensation package totaled $3,619,376. Highland Ex. 13.

> If the actual refund ends up being different than the estimated amount, then we would consider what action to take on a case-by-case basis, considering several factors including the difference in the refund amount and if that creates any "gap" between the target total cash compensation and your actual cash compensation would be.

Id. at 3–5 (emphasis in original). A slide-deck dated March 6, 2009, and titled "Tax Discussion" included "[p]rovide overview of tax refund estimate calculation" as an objective. Highland Ex. 39; *see also* Trial Tr. 296:6–11. One slide answered affirmatively the following question: "Can the IRS claw back the refund?" *Id.* at 7.

10. In 2009, based on a draft Schedule K-1 that Highland provided to him, Daugherty filed his 2008 federal income tax return. Dkt. No. 101, ¶ 11. The Draft K-1 identified Daugherty's "partner's share of loss" as 0.746998% as of December 31, 2008. Daugherty Ex. 26. In 2009, Daugherty received refunds from the IRS of previously paid taxes in the amounts of $493,629 and $780,301 related to his 2008 Individual Income Tax Return (Form 1040) and his 2008 Application for Tentative Refund (Form 1045), respectively, for a total refund of $1,273,930. Highland Exs. 35, 36. These forms incorporated Highland's losses that were allocated to him as provided for in the draft Schedule K-1. Dkt. No. 101, ¶ 12. Later in 2009, Highland issued its final 2008 Schedule K-1 to Daugherty identifying Daugherty's "partner's share of loss" as 0.740262% as of December 31, 2008. Highland Ex. 14; Daugherty Ex. 24.

11. On March 3, 2010, the IRS notified Highland that it was initiating an audit of Highland's 2008 federal income tax return. Dkt. No. 101, ¶ 13.

12. On September 28, 2011, Daugherty gave voluntary notice of resignation from all positions at Highland with his last day as an employee being October 31,

2011. *Id.* ¶ 14. Daugherty did not sign the form separation agreement attached to the Employment Agreement. Prior to his last day of employment, Daugherty and Highland attempted to negotiate different separation and release terms that included, among other things, Highland's agreement to pay a "Notice of Tax Due," or other similar demand, delivered to Daugherty because of the IRS audit of Highland's tax return. Highland Exs. 40, 41. These negotiations did not culminate in a signed agreement. Trial Tr. 207:23–209:5.

13. At trial, Daugherty testified that James Dondero, Highland's former chief executive officer, made promises to Daugherty about the 2009 tax refund. Trial Tr. 296:18–22 ("[Dondero] said, I'll take care of you. I'll make it up to you.")

14. On December 8, 2017, an IRS examiner executed Form 4605-A, which proposed to increase Highland's reported 2008 short-term portfolio income by $166,332,713. Highland Ex. 15, Daugherty Ex. 27. Settlement discussions with the IRS remain ongoing. *See* Highland Ex. 20, Daugherty Ex. 32. To date, Daugherty has not received notice that he is required to repay any amount refunded to him in connection with his 2009 tax refund.

Compliance with the Settlement Agreement

15. The Settlement Agreement required Highland to "transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type . . . . Such transfer will be without any liability or material cost to HCMLP or its affiliates . . . ." Highland Ex. 5 ¶ 8;

Daugherty Ex. 3 ¶ 8. On April 1, 2022, Highland transferred its interests in HERA and ERA to Daugherty pursuant to written agreements. Highland Ex. 52. Both HERA and ERA are Delaware limited liability companies. *Id.*

16. HERA and ERA were non-operating entities that did not have any employees, offices, servers, or email addresses. Trial Tr. at 183:17–185:7. The phrase "books and records (spreadsheet)" is not otherwise expressly defined in the settlement agreement.

17. On May 5, 2022, and October 19, 2022, Highland delivered certain documents and materials to Daugherty as reflected in Daugherty Exhibits 33 and 34. The May 2022 production included over 50MB of data and included all of HERA and ERA's (a) corporate governance records, (b) historical accounting records, and (c) historical tax filings. Trial Tr. at 192:6–21, 193:4–194:2. At Daugherty's request, Highland transmitted additional records in October 2022 that included legal invoices. Trial Tr. 80:16–81:11.

18. On February 29, 2024, HERA filed a lawsuit in the Northern District of Texas against 24 defendants. Case No. 3:24-cv-00498-K, Dkt. No. 1 (N.D. Tex.); *see also* Highland Ex. 54; Trial Tr. 198:22–199:9, 277:3–8.[8] In that case, there are pending motions to dismiss, and the district court stayed the case pending resolution of those motions to dismiss. Case No. 3:24-cv-00498-K, Dkt. No. 119. Daugherty testified that if HERA prevails on the motions to dismiss, it will seek discovery from Highland. Trial Tr. 277:18–22.

[8] The Court takes judicial notice of the docket in Case No. 3:24-cv-00498-K pending in the Northern District of Texas. Fed. R. Evid. 201(b)(2), (c)(1).

19. Daugherty performed and satisfied all obligations that the Settlement Agreement imposed upon him. Highland does not contest Daugherty's full performance of the Settlement Agreement. Daugherty's demand for specific performance relates to the HERA and ERA "books and records (spreadsheet)" provision of the settlement agreement. In particular, Daugherty seeks all materials "*related* to HERA and ERA" that are in Highland's possession. Dkt No. 102, ¶¶ 1, 27, 36 (emphasis added). Prior to filing his counterclaims in this adversary proceeding, Daugherty did not otherwise seek relief from this Court to enforce the settlement agreement.

CONCLUSIONS OF LAW

20. The Court has jurisdiction over this adversary proceeding under 28 U.S.C. § 1334. This action is a core proceeding under 28 U.S.C. § 157(b)(2)(B) and (O). Venue is proper under 28 U.S.C. §§ 1408 and 1409(a).

Burdens of Proof

21. 11 U.S.C. § 502(a) states, "A claim . . . proof of which is filed under section 501 [the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects." A properly filed proof of claim is prima facie evidence of the claimant's entitlement to collect against assets of the debtor's estate. *Cal. State Bd. Of Equalization v. Off. Unsecured Creditors' Comm. (In re Fid. Holding Co.)*, 837 F.2d 696, 698 (5th Cir. 1988).

22. If a claim objection is filed, then the burden shifts to the objector to "produce evidence tending to defeat the claim that is of a probative force equal to that

of the creditor's proof of claim." *Simmons v. Savell (In re Simmons)*, 765 F.2d 547, 552 (5th Cir. 1985). If an objector produces evidence to rebut the prima facie validity of the claim, then the claimant must prove the validity of its claim by a preponderance of the evidence. *See United States v. Canada*, 574 B.R. 620, 627 (N.D. Tex. 2017).

23. Daugherty properly filed proof of claim number 205 and attached a compensation summary dated August 18, 2011, and the 2009 Compensation Statement. Case No. 19-34054, Dkt. No. 1280-2.[9] Thus, Highland must bring forward evidence equal in probative force to defeat Daugherty's claim.

The Employment Agreement Absolves Highland of Any Liability to Daugherty.

24. The parties do not contest that Texas law controls this dispute over Daugherty's Reserved Claim. Likewise, neither party contests the validity of the Employment Agreement. At issue, then, is how to construe the 2009 Compensation Statement.

25. "In construing a written contract, the primary concern of the court is to ascertain the true intentions of the parties as expressed in the instrument." *Coker v. Coker*, 650 S.W.2d 391, 393 (Tex. 1983). "Incorporation by reference" allows courts to also consider separate documents that are plainly referred to in the contract. *See Zamora v. Swift Transp. Corp.*, 547 F. Supp. 2d 699, 702 (W.D. Tex. 2008) ("An employment agreement may incorporate, by reference, the terms of a separate

[9] Neither party in this adversary proceeding sought to introduce as an exhibit Daugherty's proof of claim number 205. Daugherty's unredacted proof of claim is inaccessible via Highland's claims administrator, Verita, is not filed elsewhere on the Court's docket, and was attached only in a redacted format to a prior motion filed in the related bankruptcy case.

document where the agreement directly and expressly refers to the separate document."); *Owen v. Hendricks*, 433 S.W.2d 164, 166 (Tex. 1968) ("It is uniformly held that an unsigned paper may be incorporated by reference in the paper signed by the person sought to be charged. The language used is not important provided the document signed by the defendant plainly refers to another writing.").

26. Article 3.1(a) of the Employment Agreement "plainly" states, ". . . annual salary . . . payable to the Executive . . . shall be communicated in writing to the Executive . . . ." Highland Ex. 11. The 2009 Compensation Statement was such a communication in writing related to Daugherty's compensation, and its terms are, therefore, incorporated in the Employment Agreement. The inquiry now turns to whether the terms in the 2009 Compensation Statement are ambiguous.

27. A contract is not ambiguous if its words can be given a certain or definite legal meaning. *Coker*, 650 S.W.2d at 393. On the other hand, ambiguity in a contract exists if its terms are uncertain, doubtful, or reasonably susceptible to more than one meaning. *Towers of Tex., Inc. v. J & J Sys., Inc.*, 834 S.W.2d 1, 2 (Tex. 1992). Parties to a disputed contract are likely to take conflicting interpretation views, "but neither conflicting expectations nor disputation is sufficient to *create* an ambiguity." *Forbau v. Aetna Life Ins. Co.*, 876 S.W.2d 132, 134 (Tex. 1994) (emphasis in original).

28. Neither Highland nor Daugherty argue that the Employment Agreement or the 2009 Compensation Statement are ambiguous. Rather, Highland argues that the 2009 Compensation Statement lacks material terms rendering it an indefinite agreement.

29. An alleged contract that fails to address all essential and material terms with a reasonable degree of certainty and definiteness is unenforceable as a matter of law. *See APS Cap. Corp. v. Mesa Air Grp. Inc.*, 580 F.3d 265, 272 (5th Cir. 2009) ("In order to be a legally enforceable contract, an agreement must be formed around the contours of sufficiently specific terms."). Material terms "are those that the parties would reasonably regard as vitally important elements of their bargain," and "a contract must define its essential terms with enough precision to enable the court to determine the obligations of the parties." *Tex. Architectural Aggregate, Inc. v. ACM-Tex., LLC (In re ACM-Tex., Inc.)*, 430 B.R. 371, 408 (Bankr. W.D. Tex. 2010) (internal citation omitted). Essential terms are unique to the type of agreement, and, in the employment context, essential terms include compensation, duties, and responsibilities. *See City of Hou. V. Williams*, 353 S.W.3d 128, 139 (Tex. 2011).

30. Legally, there is significant difference between ambiguity and indefiniteness. *See Marx v. FDP, LP*, 474 S.W.3d 368, 375 (Tex. App.—San Antonio 2015, pet. denied) ("Unlike the trial court's obligation to resolve any ambiguity necessary to enforce a contract, indefiniteness in a contract makes the contract unenforceable."); *Sifuentes v. Carrillo*, 982 S.W.2d 500, 504 (Tex. App.—San Antonio 1998, pet. denied). When an ambiguity is discovered, courts seek to resolve the ambiguity "by looking at the contract as a whole in light of the circumstances present when the contract was entered" to ascertain the parties' intent. *Coker*, 650 S.W.2d at 393–94. "As a general matter, Texas courts have consistently held that a contract may be held void for indefiniteness if it fails to specify" essential terms. *Liberto v.*

D.F. Stauffer Biscuit Co., 441 F.3d 318, 324 (5th Cir. 2006). In either instance, however, determining whether the contract is ambiguous or indefinite is a question of law. *See Coker*, 650 S.W.2d at 394; *Abatement Inc. v. Williams*, 324 S.W.3d 858, 862 (Tex. App.—Houston [14th Dist.] 2010, pet. denied).

31. The Employment Agreement incorporates by reference the 2009 Compensation Statement, such that, read together, the contract contains all material terms and is not indefinite. The following language, though, from the 2009 Compensation Statement is ambiguous:

> Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

In particular, the phrases "deviates materially," "other compensation," and "fairly adjusted" are all uncertain and reasonably susceptible to more than one meaning. There are no other provisions in the Employment Agreement or the 2009 Compensation Statement that give certain or definite legal meaning to these phrases. Thus, the Court must resolve the ambiguity to enforce the agreement.

32. The "ultimate goal" when resolving an ambiguity "is always to determine the parties' intent as objectively expressed in the words of their agreement." *Endeavor Energy Res., L.P. v. Energen Res. Corp.*, 615 S.W.3d 144, 148 (Tex. 2020). To that end, courts may consider the facts and circumstances surrounding the contract, including "objectively determinable factors that give context to the parties' transaction." *Id.* (internal quotation and citation omitted). And while this extrinsic evidence is helpful in resolving the ambiguity, courts cannot

interpret "contractual language to say what it unambiguously does not say." *Id.* (citation modified).

33. There can be little doubt that Highland intended the tax refund referenced in the 2009 Compensation Statement to be Daugherty's bonus for his work performed in 2008. Daugherty seemingly admits as much in his proof of claim. The ambiguity arises from the remaining language of the 2009 Compensation Statement that provided for a fair adjustment to other compensation if the refund amount materially deviated from the estimate. Highland Ex. 13; Daugherty Ex. 14.

34. Daugherty asserts the language obligates Highland to compensate Daugherty if the IRS Audit results in him paying back to the IRS all or part of the refund he received in 2009. Dkt. No. 102, ¶¶ 10–12. Highland argues the language is too vague and indefinite to create an enforceable obligation. Dkt. No. 101, ¶¶ 29–39.

35. The Court endeavors to resolve the ambiguity by determining the parties' intent from the entirety of the Employment Agreement and 2009 Compensation Statement. In doing so, the Court gives the words used in these documents their plain and ordinary meaning because they were not specifically defined or used in a technical manner. *See Plains Expl. & Prod. Co. v. Torch Energy Advisors Inc.*, 473 S.W.3d 296, 307 (Tex. 2015). The Court concludes that, as a component of Daugherty's compensation, Highland estimated Daugherty's refund at $1,475,816 and, if the refund amount he received materially deviated from that estimate, Highland would adjust his other compensation to make up the difference.

Highland Ex. 13, Daugherty Ex. 14. Certainly, it is a material deviation if Daugherty must pay back the entire amount he received as a refund on account of the IRS Audit.

36. Nonetheless, whether the 2009 Compensation Statement language is ambiguous and capable of resolution is immaterial, because Daugherty's Reserved Claim faces a bigger obstacle for allowance against Highland's bankruptcy estate. While the language used in the 2009 Compensation Statement is susceptible to more than one meaning, the termination provisions in the Employment Agreement are clear and unambiguous.

37. Sections 4.5 and 4.6 of the Employment Agreement deal with an executive's voluntary termination of their employment with Highland. Each provision contains the following language:

> In the event the Executive declines to sign the separation agreement and release, he/she shall not be entitled to any severance, ***and*** the Company will have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment or termination.

Highland Ex. 11 at 6 (emphasis added). Attached to the Employment Agreement as Exhibit A is the form separation agreement and release.

38. Daugherty submitted his resignation from Highland in September 2011 with an effective date of October 31, 2011. Highland Ex. 12; Daugherty Ex. 15. If Daugherty signed the separation agreement attached as Exhibit A, under the Employment Agreement, Daugherty would have been entitled to severance pay and additional earned compensation or benefits, including, potentially, a true up of the 2008 Tax Refund. Daugherty did not sign the separation agreement and release.

39. In fact, Daugherty attempted to negotiate a different general release and separation agreement with Highland prior to his last day with the company. *See* Highland Ex. 41. This separation agreement specifically referenced in paragraph 3.(c)(ii) Daugherty's right to payment from Highland if Daugherty were obligated to pay back the 2008 Tax Refund to the IRS. *Id.*, ¶ 3.(c)(ii). Daugherty did not sign this separation agreement either.

40. Therefore, the Court finds that the Employment Agreement controls whether Daugherty's Reserved Claim should be allowed against the Highland bankruptcy estate. Pursuant to its express terms, Highland is absolved of all liability or obligations to Daugherty because he failed to execute either of the separation agreements presented to him. The Reserved Claim is disallowed.

Dondero's Oral Promises did not Create an Enforceable Guaranty.

41. To the extent Daugherty argues Dondero's promises are binding agreements to cover his contingent tax liability, this argument also fails.

42. "[I]t is so obviously just that a promisor receiving no benefits should be bound only by the exact terms of his promise." *Davis v. Patrick*, 141 U.S. 479, 488 (1891). In Texas, a promise by one person to answer for the debt of another person, must be in writing and "signed by the person to be charged with the promise or

agreement or by someone lawfully authorized to sign for him." Tex. Bus. & Com. Code § 26.01(a), (b)(2).[10]

43. There is, however, an exception to the general rule that a promise to pay another's debt must be in writing—the main purpose doctrine.

> [W]herever the main purpose and object of the promisor is, not to answer for another, but to subserve some purpose of his own, his promise is not within the statute [of frauds], although it may be in form a promise to pay the debt of another, and although the performance of it may incidentally have the effect of extinguishing the liability of another.

Lemmon v. Box, 20 Tex. 329, 332 (1857). Three elements must be met to satisfy the main purpose doctrine and thereby remove the promise from the statute of frauds:

> (1) the promisor intended to create primary responsibility in itself to pay the debt; (2) there was consideration for the promise; and (3) the consideration given for the promise was primarily for the promisor's own use and benefit—that is, the benefit it received was the promisor's main purpose for making the promise.

Cruz v. Andrews Restoration, Inc., 364 S.W.3d 817, 828 (Tex. 2012). "Consideration is a bargained-for exchange of promises or return performance and consists of benefits and detriments to the contracting parties." *Marx*, 474 S.W.3d at 378. Without it, a contract is unenforceable. *Id.*

---

[10] The Texas Business and Commerce Code defines "person" as "an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, any other legal or commercial entity, or a protected series or registered series of a for-profit entity." Tex. Bus. & Com. Code § 1.201(b)(27).

The evidence before the Court is that Daugherty worked in Highland's Texas office, negotiated his separation while in Texas, and the Employment Agreement identifies Texas in its "choice of law" provision. Thus, the Court will consider Texas law when construing Daugherty's testimony about Highland's promise to pay his unliquidated tax liability.

44. Assuming without deciding that Highland intended to create primary responsibility in itself to pay Daugherty's tax liability, the promise fails because there was no consideration. Though Daugherty testified that Dondero repeatedly promised to cover his tax liability, the only evidence before the Court of consideration for such promise is an unexecuted separation agreement. Highland Ex. 41. In that unexecuted separation agreement, Daugherty would give certain releases in favor of Highland and its subsidiaries in exchange for Highland's promise to pay "a 'Notice of Tax Due' or other such letter from a governmental taxing authority demanding payment for taxes that relates to an Internal Revenue Service audit." *Id.*, ¶¶ 3(c)(ii), 4. Neither party, however, agreed to be bound by the terms of the separation agreement, and there is no evidence that Dondero's oral promise, made conceivably on behalf of Highland, is relieved from the statute of frauds. These unwritten promises are not enforceable and, likewise, prohibit Daugherty from collecting his Reserved Claim from Highland's bankruptcy estate.

45. Based on an argument that Dondero promised to make Daugherty whole, for the reasons set forth above, Daugherty's Reserved Claim is disallowed.

Highland Fulfilled its Obligations under the Settlement Agreement.

46. Daugherty bears the burden of proving that Highland breached the settlement agreement by failing to turnover the HERA and ERA "books and records (spreadsheet)," which is remedied only by specific performance. *Movora LLC v. Gendreau*, 345 A.3d 997, 1011 (Del. 2025); *In re IBP, Inc. S'holders Litig.*, 789 A.2d 14, 53 (Del. Ch. 2001). To obtain specific performance under Delaware law, a plaintiff

must prove by clear and convincing evidence: (1) a valid contract exists, (2) the plaintiff is ready, willing, and able to perform, (3) a legal remedy would be inadequate, and (4) the balance of equities tips in favor of the party seeking specific performance. *Am. Healthcare Admin. Servs., Inc. v. Aizen*, 285 A.3d 461, 495 (Del. Ch. 2022).

47. "Delaware adheres to the objective theory of contracts, i.e. a contract's construction should be that which would be understood by an objective, reasonable third party." *Osborn v. Kemp*, 991 A.2d 1153, 1159 (Del. 2010). Courts will give effect to the plain-meaning of a contract's terms and provisions where they are clear and unambiguous. *Id.* at 1159–60.

48. To that end, the Delaware Court of Chancery has stated that "[t]he meaning of the term 'books and records' can readily be understood through § 18–305 of the LLC Act and through its corporate law and limited partnership law counterparts, 8 Del. C. § 220 and 6 Del. C. § 17–305, respectively."[11] *Arbor Place, L.P. v. Encore Opportunity Fund, L.L.C.*, No. CIV.A. 18928, 2002 WL 205681, at *3 n.3 (Del. Ch. Jan. 29, 2002) (finding tax returns were within the scope of a contractual "books and records" provision). The Delaware Limited Liability Company Act, 6 Del. C. § 18-305(a), generally identifies, at a minimum, the statutory books and records that a Delaware LLC must provide to its managers for inspection:

> (1) True and full information regarding the status of the business and financial condition of the limited liability company;

[11] 8 Del. C. § 220, the corporate books and records provision, sets out defined categories of corporate financial and governance documents and does not have a "just and reasonable" category. The Delaware Limited Partnership Law books and records provision, 6 Del. C. § 17–305, is substantially similar to the Delaware LLC Law's provision.

> (2) Promptly after becoming available, a copy of the limited liability company's federal, state and local income tax returns for each year;
>
> (3) A current list of the name and last known business, residence or mailing address of each member and manager;
>
> (4) A copy of any written limited liability company agreement and certificate of formation and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the limited liability company agreement and any certificate and all amendments thereto have been executed;
>
> (5) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and
>
> (6) Other information regarding the affairs of the limited liability company as is just and reasonable.

49. Highland provided Daugherty with HERA and ERA's financial, governance, and tax records. And, at Daugherty's request, Highland provided additional information that supported HERA and ERA's financial records. Daugherty's requests for "all" documents or documents that "related to" HERA and ERA were not "just and reasonable," and Highland was under no obligation to satisfy them. The Court thus finds that Highland did not breach the Books and Records Provision of the settlement agreement, and Daugherty is not entitled to specific performance.

50. The Court's conclusion here is without prejudice to HERA seeking discovery from Highland in connection with its lawsuit pending in the Northern District of Texas.

CONCLUSION

Daugherty's Reserved Claim is disallowed, and he shall collect nothing further from Highland's bankruptcy estate or the claimant trust. Daugherty's counterclaim for breach of contract and specific performance is denied. The Court will issue a judgment consistent with this Memorandum Opinion.

End of Memorandum Opinion

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Jul 24, 2026 Form ID: pdf001 Total Noticed: 6

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jul 26, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.ty.ecf@usdoj.gov	Jul 24 2026 22:14:00	US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee - MD12, US Trustee's Office, 230 Homer Thornberry Judicial Bldg., 903 San Jacinto Blvd., Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 6

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jul 26, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on July 24, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hwinograd@allenmatkins.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hwinograd@allenmatkins.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 24, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

JUDGMENT

Consistent with the Memorandum Opinion issued on this date, it is hereby

ORDERED, ADJUDGED, AND DECREED that Patrick Hagaman Daugherty's ("Daugherty") Reserved Claim[1] is disallowed; it is further

ORDERED, ADJUDGED, AND DECREED that Highland Capital Management, L.P. ("Highland") did not breach its obligations under the Settlement Agreement between Highland and Daugherty dated November 22, 2021, and approved by this Court on March 8, 2022 (the "Settlement Agreement"); it is further

ORDERED, ADJUDGED, AND DECREED that Daugherty's request for specific performance of the Settlement Agreement is denied; and it is further

ORDERED, ADJUDGED, AND DECREED that any relief not expressly granted herein is denied.

This Judgment disposes of all parties and all claims in this adversary proceeding.

End of Judgment

[1] "Reserved Claim" has the same meaning given to it in the Court's Memorandum Opinion.

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Jul 24, 2026 Form ID: pdf001 Total Noticed: 6

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jul 26, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.ty.ecf@usdoj.gov	Jul 24 2026 22:14:00	US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee - MD12, US Trustee's Office, 230 Homer Thornberry Judicial Bldg., 903 San Jacinto Blvd., Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Jul 24 2026 22:14:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 6

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

District/off: 0539-3 User: admin

Date Rcvd: Jul 24, 2026 Form ID: pdf001 Total Noticed: 6

Date: Jul 26, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on July 24, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hwinograd@allenmatkins.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hwinograd@allenmatkins.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 24, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

MEMORANDUM OPINION

The Court issues this Memorandum Opinion in the action between Plaintiff and Counter-Defendant, Highland Capital Management, L.P. ("Highland"), and Patrick Hagaman Daugherty ("Daugherty"), Defendant and Counter-Plaintiff.

Highland contests the validity of Daugherty's proof of claim filed in its related bankruptcy case and seeks to disallow the claim. In the alternative, Highland asks the Court to estimate Daugherty's contingent claim under 11 U.S.C. § 502(c) for purposes of making a distribution under Highland's confirmed chapter 11 plan.[1] Daugherty's counterclaims allege that Highland breached a prior settlement agreement between the parties, in which Highland agreed to turnover the Highland Employee Retention Assets LLC ("HERA") and ERA Management, LLC ("ERA") books and records. Daugherty seeks specific performance of the settlement agreement.[2] Trial was held on April 17, 2026, after which the parties submitted proposed findings of fact and conclusions of law.

The Court's findings and conclusions are based upon the record before the Court and are issued under Rule 52 of the Federal Rules of Civil Procedure, made applicable in this adversary proceeding by Rule 7052 of the Federal Rules of Bankruptcy Procedure.

The issues here raise mixed questions of fact and law. Accordingly, where appropriate, findings of fact may be considered conclusions of law and conclusions of law may be considered findings of fact.

[1] Prior to trial, Highland withdrew its claim for subordination under 11 U.S.C. § 510(b). Unless otherwise stated, all "§" or "section" references are to Tile 11 of the United States Code (the "Bankruptcy Code").

[2] Prior to trial, Daugherty withdrew his claim for attorney's fees.

FINDINGS OF FACT

Highland's Bankruptcy Case and Daugherty's Reserved Claim

1. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code commencing the above-captioned bankruptcy case. Case No. 19-34054, Dkt. No. 1. In Highland's bankruptcy case, Daugherty filed several proofs of claim that culminated in proof of claim number 205, which is subject to the parties' dispute in this adversary proceeding. Dkt. No. 101, ¶ 2.[3]

2. On November 24, 2020, this Court entered an Order temporarily allowing Daughtery's claim in the amount of $9,134,019.00 for voting purposes only. Case No. 19-34054, Dkt. No. 1474. Then, on February 22, 2021, this Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief*.[4] *Id.*, Dkt. No. 1943. Highland's confirmed plan became effective on August 11, 2021, at which time a claimant trust was established over which James P. Seery, Highland's Chief Executive Officer, was appointed trustee. *Id.*, Dkt. Nos. 1808, 2700.

3. Following confirmation, on November 22, 2021, Highland and Daugherty executed a settlement agreement. Dkt. No. 101, ¶ 19. Among other things, the settlement agreement resolved Daugherty's claims against Highland's bankruptcy estate, save for one, and required Highland to turnover HERA and ERA's

[3] Unless otherwise stated, all "Dkt. No." references herein are to the above-captioned adversary proceeding.

[4] The Confirmation Order was subsequently modified for reasons irrelevant to this dispute. *See* Case No. 19-34054, Dkt. No. 4378.

books and records to Daugherty. Highland Ex. 5; Daugherty Ex. 3. Below are provisions from the settlement agreement relevant to this dispute:

> 8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

Highland Ex. 5, ¶¶ 8, 9; Daugherty Ex. 3, ¶¶ 8, 9. The Court entered an order approving the settlement agreement on March 8, 2022, which allowed Daugherty's proof of claim number 205 in the amounts set forth in the settlement agreement, subject to further resolution of the Reserved Claim.[5] Case No. 19-34054, Dkt. No. 3298.

4. On May 2, 2025, Highland commenced this adversary proceeding by filing its Complaint seeking to disallow the Reserved Claim or, alternatively,

[5] "Reserved Claim" has the meaning given to it by the Parties in the Settlement Agreement. Highland Ex. 5, ¶ 9; Daugherty Ex. 3, ¶ 9.

requesting that the Court estimate the Reserved Claim.[6] Dkt. No. 1. On June 4, 2025, Daugherty filed his *Motion to Dismiss* Highland's complaint. Dkt. No. 5.

5. On July 18, 2025, Highland filed its *(A) Objection to Patrick Daugherty's Motion to Dismiss, and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* ("Cross Motion"). Dkt. No. 10. The Cross Motion sought to modify the order approving the settlement agreement to strike the so-called "Stay Provision." Such relief would permit Highland to proceed with its claim-disallowance proceeding against Daugherty despite there being no "final determination with respect to the IRS Audit Dispute." The Court granted the Cross Motion on September 5, 2025, and modification of the settlement order remains subject of Daugherty's appeal. Dkt. Nos. 23, 25.

6. Pursuant to the settlement agreement, Daugherty's Reserved Claim is fully reserved in an account held by the Claimant Trust with a balance equal to $2,650,353.00, the amount of the Reserved Claim asserted by Daugherty in his proof of claim. Daugherty Ex. 94, ¶ 1. At trial, Mr. Seery testified that this amount remains in a claimant trust account and is the last unresolved claim of the Highland bankruptcy estate. Trial Tr. at 241:21–242:3. Any distribution made to Daugherty on account of the Reserved Claim must occur prior to distributions to Highland's partnership interests—Classes 10 and 11. Trial Tr. at 240:23–243:11.

[6] *See supra* n.1 regarding Highland's claim for subordination.

Daugherty's Employment at and Separation from Highland

7. Daugherty was employed by Highland from 1998 to his voluntary resignation in 2011. Dkt No. 101, ¶ 8, 14. On December 31, 2004, Highland and Daugherty entered into an Amended Employment Agreement ("Employment Agreement"), which, among other things, described Daugherty's compensation and benefits. Highland Ex. 11. As 'Salary and Bonus" the Employment Agreement states the following:

> (a) Salary and Bonus. The annual salary (the "***Base Salary***") payable to the Executive during the term of this Agreement shall be an amount determined by the Company (in its sole discretion) and communicated in writing to the Executive, and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon the Executive's performance and shall be determined by the Company in its sole discretion. In addition, the Company may from time to time award bonuses to the Executive based on such criteria as the Company may establish in its discretion. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. The Executive must be employed on the payment date(s) in order to be eligible for the bonus. The payment of salary and bonuses shall be subject to all federal, state and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of the Executive's compensation does not constitute a guarantee of employment for any specific period of time.

Id. ¶ 3.1(a). The Employment Agreement also includes a Form of Separation Agreement and Release, which an employee *may* sign at the termination of their employment. If an employee does not sign the separation agreement, then the Employment Agreement states that the employee is not entitled to severance, and Highland "will have no further liability or obligation to the [employee] under [the Employment Agreement] or in connection with [their] employment or termination." *Id.* ¶¶ 4.4–4.6.

8. Consistent with the Employment Agreement, Daugherty was provided with a Comprehensive Compensation and Benefits Statement ("2009 Compensation

Statement") dated February 27, 2009. Highland Ex. 13. Therein, Daugherty's 2008 earnings and awards totaled $3,594,136, of which $1,475,816 was allocated as a 2008 tax refund.[7] *Id.* Stated with the 2008 tax refund line item is the following language:

> Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

Id. This language forms the basis for Daugherty's Reserved Claim against Highland's bankruptcy estate.

9. In an email from Scott Wilson, Highland's Principal, Internal Strategy, dated February 26, 2009, to Brian Collins and Patrick Boyce, Mr. Wilson included an attachment with draft questions and answers related to the 2008 tax refund. Highland Ex. 47. Of note, the following questions included draft answers:

> **Why would you consider the tax refund as part of compensation? Isn't the refund in my name?**
>
> When you paid taxes in 2006 and 2007 that are now potentially subject to a refund, you received a distribution from Highland to pay those taxes. Now we believe that the taxes were overpaid, due to subsequent losses, and as such, Highland distributed an excessive amount to you to pay the taxes. Accordingly, any difference, now or then, ends up being extra compensation to you, and keeping the refund represents an extra compensation to you from Highland **(NOTE: this is by no means well researched legal argument. The Tax Dept. is investigating various legal and tax rationale in this matter, and we can discuss various options on this argument further in a verbal conversation)**
>
> **What would happen if my actual tax refund is different from this estimate, or if the timing is significantly delayed? Would I be "trued-up" if is it less? What if it is more?**

[7] With the inclusion of "Highland Paid Benefits," Daugherty's compensation package totaled $3,619,376. Highland Ex. 13.

> If the actual refund ends up being different than the estimated amount, then we would consider what action to take on a case-by-case basis, considering several factors including the difference in the refund amount and if that creates any "gap" between the target total cash compensation and your actual cash compensation would be.

Id. at 3–5 (emphasis in original). A slide-deck dated March 6, 2009, and titled "Tax Discussion" included "[p]rovide overview of tax refund estimate calculation" as an objective. Highland Ex. 39; *see also* Trial Tr. 296:6–11. One slide answered affirmatively the following question: "Can the IRS claw back the refund?" *Id.* at 7.

10. In 2009, based on a draft Schedule K-1 that Highland provided to him, Daugherty filed his 2008 federal income tax return. Dkt. No. 101, ¶ 11. The Draft K-1 identified Daugherty's "partner's share of loss" as 0.746998% as of December 31, 2008. Daugherty Ex. 26. In 2009, Daugherty received refunds from the IRS of previously paid taxes in the amounts of $493,629 and $780,301 related to his 2008 Individual Income Tax Return (Form 1040) and his 2008 Application for Tentative Refund (Form 1045), respectively, for a total refund of $1,273,930. Highland Exs. 35, 36. These forms incorporated Highland's losses that were allocated to him as provided for in the draft Schedule K-1. Dkt. No. 101, ¶ 12. Later in 2009, Highland issued its final 2008 Schedule K-1 to Daugherty identifying Daugherty's "partner's share of loss" as 0.740262% as of December 31, 2008. Highland Ex. 14; Daugherty Ex. 24.

11. On March 3, 2010, the IRS notified Highland that it was initiating an audit of Highland's 2008 federal income tax return. Dkt. No. 101, ¶ 13.

12. On September 28, 2011, Daugherty gave voluntary notice of resignation from all positions at Highland with his last day as an employee being October 31,

2011. *Id.* ¶ 14. Daugherty did not sign the form separation agreement attached to the Employment Agreement. Prior to his last day of employment, Daugherty and Highland attempted to negotiate different separation and release terms that included, among other things, Highland's agreement to pay a "Notice of Tax Due," or other similar demand, delivered to Daugherty because of the IRS audit of Highland's tax return. Highland Exs. 40, 41. These negotiations did not culminate in a signed agreement. Trial Tr. 207:23–209:5.

13. At trial, Daugherty testified that James Dondero, Highland's former chief executive officer, made promises to Daugherty about the 2009 tax refund. Trial Tr. 296:18–22 ("[Dondero] said, I'll take care of you. I'll make it up to you.")

14. On December 8, 2017, an IRS examiner executed Form 4605-A, which proposed to increase Highland's reported 2008 short-term portfolio income by $166,332,713. Highland Ex. 15, Daugherty Ex. 27. Settlement discussions with the IRS remain ongoing. *See* Highland Ex. 20, Daugherty Ex. 32. To date, Daugherty has not received notice that he is required to repay any amount refunded to him in connection with his 2009 tax refund.

Compliance with the Settlement Agreement

15. The Settlement Agreement required Highland to "transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type . . . . Such transfer will be without any liability or material cost to HCMLP or its affiliates . . . ." Highland Ex. 5 ¶ 8;

Daugherty Ex. 3 ¶ 8. On April 1, 2022, Highland transferred its interests in HERA and ERA to Daugherty pursuant to written agreements. Highland Ex. 52. Both HERA and ERA are Delaware limited liability companies. *Id.*

16. HERA and ERA were non-operating entities that did not have any employees, offices, servers, or email addresses. Trial Tr. at 183:17–185:7. The phrase "books and records (spreadsheet)" is not otherwise expressly defined in the settlement agreement.

17. On May 5, 2022, and October 19, 2022, Highland delivered certain documents and materials to Daugherty as reflected in Daugherty Exhibits 33 and 34. The May 2022 production included over 50MB of data and included all of HERA and ERA's (a) corporate governance records, (b) historical accounting records, and (c) historical tax filings. Trial Tr. at 192:6–21, 193:4–194:2. At Daugherty's request, Highland transmitted additional records in October 2022 that included legal invoices. Trial Tr. 80:16–81:11.

18. On February 29, 2024, HERA filed a lawsuit in the Northern District of Texas against 24 defendants. Case No. 3:24-cv-00498-K, Dkt. No. 1 (N.D. Tex.); *see also* Highland Ex. 54; Trial Tr. 198:22–199:9, 277:3–8.[8] In that case, there are pending motions to dismiss, and the district court stayed the case pending resolution of those motions to dismiss. Case No. 3:24-cv-00498-K, Dkt. No. 119. Daugherty testified that if HERA prevails on the motions to dismiss, it will seek discovery from Highland. Trial Tr. 277:18–22.

[8] The Court takes judicial notice of the docket in Case No. 3:24-cv-00498-K pending in the Northern District of Texas. Fed. R. Evid. 201(b)(2), (c)(1).

19. Daugherty performed and satisfied all obligations that the Settlement Agreement imposed upon him. Highland does not contest Daugherty's full performance of the Settlement Agreement. Daugherty's demand for specific performance relates to the HERA and ERA "books and records (spreadsheet)" provision of the settlement agreement. In particular, Daugherty seeks all materials "*related* to HERA and ERA" that are in Highland's possession. Dkt No. 102, ¶¶ 1, 27, 36 (emphasis added). Prior to filing his counterclaims in this adversary proceeding, Daugherty did not otherwise seek relief from this Court to enforce the settlement agreement.

CONCLUSIONS OF LAW

20. The Court has jurisdiction over this adversary proceeding under 28 U.S.C. § 1334. This action is a core proceeding under 28 U.S.C. § 157(b)(2)(B) and (O). Venue is proper under 28 U.S.C. §§ 1408 and 1409(a).

Burdens of Proof

21. 11 U.S.C. § 502(a) states, "A claim . . . proof of which is filed under section 501 [the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects." A properly filed proof of claim is prima facie evidence of the claimant's entitlement to collect against assets of the debtor's estate. *Cal. State Bd. Of Equalization v. Off. Unsecured Creditors' Comm. (In re Fid. Holding Co.)*, 837 F.2d 696, 698 (5th Cir. 1988).

22. If a claim objection is filed, then the burden shifts to the objector to "produce evidence tending to defeat the claim that is of a probative force equal to that

of the creditor's proof of claim." *Simmons v. Savell (In re Simmons)*, 765 F.2d 547, 552 (5th Cir. 1985). If an objector produces evidence to rebut the prima facie validity of the claim, then the claimant must prove the validity of its claim by a preponderance of the evidence. *See United States v. Canada*, 574 B.R. 620, 627 (N.D. Tex. 2017).

23. Daugherty properly filed proof of claim number 205 and attached a compensation summary dated August 18, 2011, and the 2009 Compensation Statement. Case No. 19-34054, Dkt. No. 1280-2.[9] Thus, Highland must bring forward evidence equal in probative force to defeat Daugherty's claim.

The Employment Agreement Absolves Highland of Any Liability to Daugherty.

24. The parties do not contest that Texas law controls this dispute over Daugherty's Reserved Claim. Likewise, neither party contests the validity of the Employment Agreement. At issue, then, is how to construe the 2009 Compensation Statement.

25. "In construing a written contract, the primary concern of the court is to ascertain the true intentions of the parties as expressed in the instrument." *Coker v. Coker*, 650 S.W.2d 391, 393 (Tex. 1983). "Incorporation by reference" allows courts to also consider separate documents that are plainly referred to in the contract. *See Zamora v. Swift Transp. Corp.*, 547 F. Supp. 2d 699, 702 (W.D. Tex. 2008) ("An employment agreement may incorporate, by reference, the terms of a separate

[9] Neither party in this adversary proceeding sought to introduce as an exhibit Daugherty's proof of claim number 205. Daugherty's unredacted proof of claim is inaccessible via Highland's claims administrator, Verita, is not filed elsewhere on the Court's docket, and was attached only in a redacted format to a prior motion filed in the related bankruptcy case.

document where the agreement directly and expressly refers to the separate document."); *Owen v. Hendricks*, 433 S.W.2d 164, 166 (Tex. 1968) ("It is uniformly held that an unsigned paper may be incorporated by reference in the paper signed by the person sought to be charged. The language used is not important provided the document signed by the defendant plainly refers to another writing.").

26. Article 3.1(a) of the Employment Agreement "plainly" states, ". . . annual salary . . . payable to the Executive . . . shall be communicated in writing to the Executive . . . ." Highland Ex. 11. The 2009 Compensation Statement was such a communication in writing related to Daugherty's compensation, and its terms are, therefore, incorporated in the Employment Agreement. The inquiry now turns to whether the terms in the 2009 Compensation Statement are ambiguous.

27. A contract is not ambiguous if its words can be given a certain or definite legal meaning. *Coker*, 650 S.W.2d at 393. On the other hand, ambiguity in a contract exists if its terms are uncertain, doubtful, or reasonably susceptible to more than one meaning. *Towers of Tex., Inc. v. J & J Sys., Inc.*, 834 S.W.2d 1, 2 (Tex. 1992). Parties to a disputed contract are likely to take conflicting interpretation views, "but neither conflicting expectations nor disputation is sufficient to *create* an ambiguity." *Forbau v. Aetna Life Ins. Co.*, 876 S.W.2d 132, 134 (Tex. 1994) (emphasis in original).

28. Neither Highland nor Daugherty argue that the Employment Agreement or the 2009 Compensation Statement are ambiguous. Rather, Highland argues that the 2009 Compensation Statement lacks material terms rendering it an indefinite agreement.

29. An alleged contract that fails to address all essential and material terms with a reasonable degree of certainty and definiteness is unenforceable as a matter of law. *See APS Cap. Corp. v. Mesa Air Grp. Inc.*, 580 F.3d 265, 272 (5th Cir. 2009) ("In order to be a legally enforceable contract, an agreement must be formed around the contours of sufficiently specific terms."). Material terms "are those that the parties would reasonably regard as vitally important elements of their bargain," and "a contract must define its essential terms with enough precision to enable the court to determine the obligations of the parties." *Tex. Architectural Aggregate, Inc. v. ACM-Tex., LLC (In re ACM-Tex., Inc.)*, 430 B.R. 371, 408 (Bankr. W.D. Tex. 2010) (internal citation omitted). Essential terms are unique to the type of agreement, and, in the employment context, essential terms include compensation, duties, and responsibilities. *See City of Hou. V. Williams*, 353 S.W.3d 128, 139 (Tex. 2011).

30. Legally, there is significant difference between ambiguity and indefiniteness. *See Marx v. FDP, LP*, 474 S.W.3d 368, 375 (Tex. App.—San Antonio 2015, pet. denied) ("Unlike the trial court's obligation to resolve any ambiguity necessary to enforce a contract, indefiniteness in a contract makes the contract unenforceable."); *Sifuentes v. Carrillo*, 982 S.W.2d 500, 504 (Tex. App.—San Antonio 1998, pet. denied). When an ambiguity is discovered, courts seek to resolve the ambiguity "by looking at the contract as a whole in light of the circumstances present when the contract was entered" to ascertain the parties' intent. *Coker*, 650 S.W.2d at 393–94. "As a general matter, Texas courts have consistently held that a contract may be held void for indefiniteness if it fails to specify" essential terms. *Liberto v.*

D.F. Stauffer Biscuit Co., 441 F.3d 318, 324 (5th Cir. 2006). In either instance, however, determining whether the contract is ambiguous or indefinite is a question of law. *See Coker*, 650 S.W.2d at 394; *Abatement Inc. v. Williams*, 324 S.W.3d 858, 862 (Tex. App.—Houston [14th Dist.] 2010, pet. denied).

31. The Employment Agreement incorporates by reference the 2009 Compensation Statement, such that, read together, the contract contains all material terms and is not indefinite. The following language, though, from the 2009 Compensation Statement is ambiguous:

> Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

In particular, the phrases "deviates materially," "other compensation," and "fairly adjusted" are all uncertain and reasonably susceptible to more than one meaning. There are no other provisions in the Employment Agreement or the 2009 Compensation Statement that give certain or definite legal meaning to these phrases. Thus, the Court must resolve the ambiguity to enforce the agreement.

32. The "ultimate goal" when resolving an ambiguity "is always to determine the parties' intent as objectively expressed in the words of their agreement." *Endeavor Energy Res., L.P. v. Energen Res. Corp.*, 615 S.W.3d 144, 148 (Tex. 2020). To that end, courts may consider the facts and circumstances surrounding the contract, including "objectively determinable factors that give context to the parties' transaction." *Id.* (internal quotation and citation omitted). And while this extrinsic evidence is helpful in resolving the ambiguity, courts cannot

interpret "contractual language to say what it unambiguously does not say." *Id.* (citation modified).

33. There can be little doubt that Highland intended the tax refund referenced in the 2009 Compensation Statement to be Daugherty's bonus for his work performed in 2008. Daugherty seemingly admits as much in his proof of claim. The ambiguity arises from the remaining language of the 2009 Compensation Statement that provided for a fair adjustment to other compensation if the refund amount materially deviated from the estimate. Highland Ex. 13; Daugherty Ex. 14.

34. Daugherty asserts the language obligates Highland to compensate Daugherty if the IRS Audit results in him paying back to the IRS all or part of the refund he received in 2009. Dkt. No. 102, ¶¶ 10–12. Highland argues the language is too vague and indefinite to create an enforceable obligation. Dkt. No. 101, ¶¶ 29–39.

35. The Court endeavors to resolve the ambiguity by determining the parties' intent from the entirety of the Employment Agreement and 2009 Compensation Statement. In doing so, the Court gives the words used in these documents their plain and ordinary meaning because they were not specifically defined or used in a technical manner. *See Plains Expl. & Prod. Co. v. Torch Energy Advisors Inc.*, 473 S.W.3d 296, 307 (Tex. 2015). The Court concludes that, as a component of Daugherty's compensation, Highland estimated Daugherty's refund at $1,475,816 and, if the refund amount he received materially deviated from that estimate, Highland would adjust his other compensation to make up the difference.

Highland Ex. 13, Daugherty Ex. 14. Certainly, it is a material deviation if Daugherty must pay back the entire amount he received as a refund on account of the IRS Audit.

36. Nonetheless, whether the 2009 Compensation Statement language is ambiguous and capable of resolution is immaterial, because Daugherty's Reserved Claim faces a bigger obstacle for allowance against Highland's bankruptcy estate. While the language used in the 2009 Compensation Statement is susceptible to more than one meaning, the termination provisions in the Employment Agreement are clear and unambiguous.

37. Sections 4.5 and 4.6 of the Employment Agreement deal with an executive's voluntary termination of their employment with Highland. Each provision contains the following language:

> In the event the Executive declines to sign the separation agreement and release, he/she shall not be entitled to any severance, ***and*** the Company will have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment or termination.

Highland Ex. 11 at 6 (emphasis added). Attached to the Employment Agreement as Exhibit A is the form separation agreement and release.

38. Daugherty submitted his resignation from Highland in September 2011 with an effective date of October 31, 2011. Highland Ex. 12; Daugherty Ex. 15. If Daugherty signed the separation agreement attached as Exhibit A, under the Employment Agreement, Daugherty would have been entitled to severance pay and additional earned compensation or benefits, including, potentially, a true up of the 2008 Tax Refund. Daugherty did not sign the separation agreement and release.

39. In fact, Daugherty attempted to negotiate a different general release and separation agreement with Highland prior to his last day with the company. *See* Highland Ex. 41. This separation agreement specifically referenced in paragraph 3.(c)(ii) Daugherty's right to payment from Highland if Daugherty were obligated to pay back the 2008 Tax Refund to the IRS. *Id.*, ¶ 3.(c)(ii). Daugherty did not sign this separation agreement either.

40. Therefore, the Court finds that the Employment Agreement controls whether Daugherty's Reserved Claim should be allowed against the Highland bankruptcy estate. Pursuant to its express terms, Highland is absolved of all liability or obligations to Daugherty because he failed to execute either of the separation agreements presented to him. The Reserved Claim is disallowed.

Dondero's Oral Promises did not Create an Enforceable Guaranty.

41. To the extent Daugherty argues Dondero's promises are binding agreements to cover his contingent tax liability, this argument also fails.

42. "[I]t is so obviously just that a promisor receiving no benefits should be bound only by the exact terms of his promise." *Davis v. Patrick*, 141 U.S. 479, 488 (1891). In Texas, a promise by one person to answer for the debt of another person, must be in writing and "signed by the person to be charged with the promise or

agreement or by someone lawfully authorized to sign for him." Tex. Bus. & Com. Code § 26.01(a), (b)(2).[10]

43. There is, however, an exception to the general rule that a promise to pay another's debt must be in writing—the main purpose doctrine.

> [W]herever the main purpose and object of the promisor is, not to answer for another, but to subserve some purpose of his own, his promise is not within the statute [of frauds], although it may be in form a promise to pay the debt of another, and although the performance of it may incidentally have the effect of extinguishing the liability of another.

Lemmon v. Box, 20 Tex. 329, 332 (1857). Three elements must be met to satisfy the main purpose doctrine and thereby remove the promise from the statute of frauds:

> (1) the promisor intended to create primary responsibility in itself to pay the debt; (2) there was consideration for the promise; and (3) the consideration given for the promise was primarily for the promisor's own use and benefit—that is, the benefit it received was the promisor's main purpose for making the promise.

Cruz v. Andrews Restoration, Inc., 364 S.W.3d 817, 828 (Tex. 2012). "Consideration is a bargained-for exchange of promises or return performance and consists of benefits and detriments to the contracting parties." *Marx*, 474 S.W.3d at 378. Without it, a contract is unenforceable. *Id.*

---

[10] The Texas Business and Commerce Code defines "person" as "an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, any other legal or commercial entity, or a protected series or registered series of a for-profit entity." Tex. Bus. & Com. Code § 1.201(b)(27).

The evidence before the Court is that Daugherty worked in Highland's Texas office, negotiated his separation while in Texas, and the Employment Agreement identifies Texas in its "choice of law" provision. Thus, the Court will consider Texas law when construing Daugherty's testimony about Highland's promise to pay his unliquidated tax liability.

44. Assuming without deciding that Highland intended to create primary responsibility in itself to pay Daugherty's tax liability, the promise fails because there was no consideration. Though Daugherty testified that Dondero repeatedly promised to cover his tax liability, the only evidence before the Court of consideration for such promise is an unexecuted separation agreement. Highland Ex. 41. In that unexecuted separation agreement, Daugherty would give certain releases in favor of Highland and its subsidiaries in exchange for Highland's promise to pay "a 'Notice of Tax Due' or other such letter from a governmental taxing authority demanding payment for taxes that relates to an Internal Revenue Service audit." *Id.*, ¶¶ 3(c)(ii), 4. Neither party, however, agreed to be bound by the terms of the separation agreement, and there is no evidence that Dondero's oral promise, made conceivably on behalf of Highland, is relieved from the statute of frauds. These unwritten promises are not enforceable and, likewise, prohibit Daugherty from collecting his Reserved Claim from Highland's bankruptcy estate.

45. Based on an argument that Dondero promised to make Daugherty whole, for the reasons set forth above, Daugherty's Reserved Claim is disallowed.

Highland Fulfilled its Obligations under the Settlement Agreement.

46. Daugherty bears the burden of proving that Highland breached the settlement agreement by failing to turnover the HERA and ERA "books and records (spreadsheet)," which is remedied only by specific performance. *Movora LLC v. Gendreau*, 345 A.3d 997, 1011 (Del. 2025); *In re IBP, Inc. S'holders Litig.*, 789 A.2d 14, 53 (Del. Ch. 2001). To obtain specific performance under Delaware law, a plaintiff

must prove by clear and convincing evidence: (1) a valid contract exists, (2) the plaintiff is ready, willing, and able to perform, (3) a legal remedy would be inadequate, and (4) the balance of equities tips in favor of the party seeking specific performance. *Am. Healthcare Admin. Servs., Inc. v. Aizen*, 285 A.3d 461, 495 (Del. Ch. 2022).

47. "Delaware adheres to the objective theory of contracts, i.e. a contract's construction should be that which would be understood by an objective, reasonable third party." *Osborn v. Kemp*, 991 A.2d 1153, 1159 (Del. 2010). Courts will give effect to the plain-meaning of a contract's terms and provisions where they are clear and unambiguous. *Id.* at 1159–60.

48. To that end, the Delaware Court of Chancery has stated that "[t]he meaning of the term 'books and records' can readily be understood through § 18–305 of the LLC Act and through its corporate law and limited partnership law counterparts, 8 Del. C. § 220 and 6 Del. C. § 17–305, respectively."[11] *Arbor Place, L.P. v. Encore Opportunity Fund, L.L.C.*, No. CIV.A. 18928, 2002 WL 205681, at *3 n.3 (Del. Ch. Jan. 29, 2002) (finding tax returns were within the scope of a contractual "books and records" provision). The Delaware Limited Liability Company Act, 6 Del. C. § 18-305(a), generally identifies, at a minimum, the statutory books and records that a Delaware LLC must provide to its managers for inspection:

> (1) True and full information regarding the status of the business and financial condition of the limited liability company;

[11] 8 Del. C. § 220, the corporate books and records provision, sets out defined categories of corporate financial and governance documents and does not have a "just and reasonable" category. The Delaware Limited Partnership Law books and records provision, 6 Del. C. § 17–305, is substantially similar to the Delaware LLC Law's provision.

> (2) Promptly after becoming available, a copy of the limited liability company's federal, state and local income tax returns for each year;
>
> (3) A current list of the name and last known business, residence or mailing address of each member and manager;
>
> (4) A copy of any written limited liability company agreement and certificate of formation and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the limited liability company agreement and any certificate and all amendments thereto have been executed;
>
> (5) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and
>
> (6) Other information regarding the affairs of the limited liability company as is just and reasonable.

49. Highland provided Daugherty with HERA and ERA's financial, governance, and tax records. And, at Daugherty's request, Highland provided additional information that supported HERA and ERA's financial records. Daugherty's requests for "all" documents or documents that "related to" HERA and ERA were not "just and reasonable," and Highland was under no obligation to satisfy them. The Court thus finds that Highland did not breach the Books and Records Provision of the settlement agreement, and Daugherty is not entitled to specific performance.

50. The Court's conclusion here is without prejudice to HERA seeking discovery from Highland in connection with its lawsuit pending in the Northern District of Texas.

CONCLUSION

Daugherty's Reserved Claim is disallowed, and he shall collect nothing further from Highland's bankruptcy estate or the claimant trust. Daugherty's counterclaim for breach of contract and specific performance is denied. The Court will issue a judgment consistent with this Memorandum Opinion.

End of Memorandum Opinion

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
Gray Reed & McGraw LLP
1845 Woodall Rogers Freeway, Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	CASE NO. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	ADV. PROC. NO. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff	§	
	§	

NOTICE OF APPEAL

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): **Patrick Daugherty**

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

   For appeals in an adversary proceeding.
   ☐ Plaintiff
   ☒ Defendant
   ☐ Other (describe):

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed: **Judgment [Docket No. 138], attached hereto as Exhibit A.**

2. State the date on which the judgment, order, or decree was entered: **July 24, 2026.**

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Patrick Daugherty

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507
GRAY REED & McGRAW LLP
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

2. Highland Capital Management, L.P. and Highland Claimant Trust	Jeffrey N. Pomerantz (admitted *pro hac vice)* John A. Morris (admitted *pro hac vice*) Gregory V. Dmo (admitted *pro hac vice*) Hayley R. Winograd (admitted *pro hac vice*) **PACHULSKI STANG ZIEHL & JONES LLP** 10100 Santa Monica Blvd., 13th Floor Los Angeles, California 90067 Telephone: (310) 277-6910 Facsimile: (310) 201-0760 Email: jpomerantz@pszjlaw.com jmorris@pszjlaw.com gdemo@pszjlaw.com hwinograd@pszjlaw.com -and- Melissa S. Hayward Texas Bar No. 24044908 Zachery Z. Annable Texas Bar No. 24053075 **HAYWARD PLLC** 10501 N. Central Expwy., Suite 106 Dallas, Texas 75231 Telephone: (972) 755-7100 Facsimile: (972) 75507110 Email: mhayward@haywardfirm.com zannble@haywardfirm.com

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign Below

Respectfully submitted this seventh day of August, 2026.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rogers Freeway, Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this seventh day of August, 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 24, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

JUDGMENT

Consistent with the Memorandum Opinion issued on this date, it is hereby

ORDERED, ADJUDGED, AND DECREED that Patrick Hagaman Daugherty's ("Daugherty") Reserved Claim[1] is disallowed; it is further

ORDERED, ADJUDGED, AND DECREED that Highland Capital Management, L.P. ("Highland") did not breach its obligations under the Settlement Agreement between Highland and Daugherty dated November 22, 2021, and approved by this Court on March 8, 2022 (the "Settlement Agreement"); it is further

ORDERED, ADJUDGED, AND DECREED that Daugherty's request for specific performance of the Settlement Agreement is denied; and it is further

ORDERED, ADJUDGED, AND DECREED that any relief not expressly granted herein is denied.

This Judgment disposes of all parties and all claims in this adversary proceeding.

End of Judgment

[1] "Reserved Claim" has the same meaning given to it in the Court's Memorandum Opinion.

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)
Gray Reed & McGraw LLP
1845 Woodall Rogers Freeway, Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	CASE NO. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	ADV. PROC. NO. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff	§	
	§	

NOTICE OF APPEAL

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): **Patrick Daugherty**

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

   For appeals in an adversary proceeding.
   ☐ Plaintiff
   ☒ Defendant
   ☐ Other (describe):

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed: **Judgment [Docket No. 138], attached hereto as Exhibit A.**

2. State the date on which the judgment, order, or decree was entered: **July 24, 2026.**

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Patrick Daugherty

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507
GRAY REED & McGRAW LLP
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

2. Highland Capital Management, L.P. and Highland Claimant Trust	Jeffrey N. Pomerantz (admitted *pro hac vice)* John A. Morris (admitted *pro hac vice*) Gregory V. Dmo (admitted *pro hac vice*) Hayley R. Winograd (admitted *pro hac vice*) **PACHULSKI STANG ZIEHL & JONES LLP** 10100 Santa Monica Blvd., 13th Floor Los Angeles, California 90067 Telephone: (310) 277-6910 Facsimile: (310) 201-0760 Email: jpomerantz@pszjlaw.com jmorris@pszjlaw.com gdemo@pszjlaw.com hwinograd@pszjlaw.com -and- Melissa S. Hayward Texas Bar No. 24044908 Zachery Z. Annable Texas Bar No. 24053075 **HAYWARD PLLC** 10501 N. Central Expwy., Suite 106 Dallas, Texas 75231 Telephone: (972) 755-7100 Facsimile: (972) 75507110 Email: mhayward@haywardfirm.com zannble@haywardfirm.com

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign Below

Respectfully submitted this seventh day of August, 2026.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rogers Freeway, Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this seventh day of August, 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 24, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
Highland Capital Management, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	Adversary No. 25-03055-bwo
	§	
Patrick Hagaman Daugherty,	§	
	§	
Defendant/Counter-Plaintiff.	§	

JUDGMENT

Consistent with the Memorandum Opinion issued on this date, it is hereby

ORDERED, ADJUDGED, AND DECREED that Patrick Hagaman Daugherty's ("Daugherty") Reserved Claim[1] is disallowed; it is further

ORDERED, ADJUDGED, AND DECREED that Highland Capital Management, L.P. ("Highland") did not breach its obligations under the Settlement Agreement between Highland and Daugherty dated November 22, 2021, and approved by this Court on March 8, 2022 (the "Settlement Agreement"); it is further

ORDERED, ADJUDGED, AND DECREED that Daugherty's request for specific performance of the Settlement Agreement is denied; and it is further

ORDERED, ADJUDGED, AND DECREED that any relief not expressly granted herein is denied.

This Judgment disposes of all parties and all claims in this adversary proceeding.

End of Judgment

[1] "Reserved Claim" has the same meaning given to it in the Court's Memorandum Opinion.

BTXN 116 (rev. 07/08)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

APPEAL SERVICE LIST

Transmission of the Record

BK Case No.: 19−34054−sgj11

Adversary No.: 25−03055−bwo

Received in District Court by: _____

Date: _____

Volume Number(s): _____

cc: Brad W Odell
Alicia Barcomb

Attorney(s) for Appellant
US Trustee

Appellant Patrick Daugherty

Jason S. Brookner
Andrew K. York
Joshua D. Smeltzer
J. Reid Burley
Drake M. Rayshell
GRAY REED & McGRAW LLP
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954−4135

Appellee Highland Capital Management, L.P. and Highland Claimant Trust

Jeffrey N. Pomerantz (admitted pro hac vice)
John A. Morris (admitted pro hac vice)
Gregory V. Dmo (admitted pro hac vice)
Hayley R. Winograd (admitted pro hac vice)
PACHULSKI STANG ZIEHL & JONES LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, California 90067
Telephone: (310) 277−6910

And

Melissa S. Hayward
Zachery Z. Annable
HAYWARD PLLC
10501 N. Central Expwy., Suite 106
Dallas, Texas 75231
Telephone: (972) 755−7100

BTXN 010 (rev. 03/04)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s)	§	Case No.: 19−34054−sgj11
Patrick Daugherty Appellant(s) vs. Highland Capital Management, L.P. and Highland Claimant Trust Appellee(s)	§	Adversary No.: 25−03055−bwo

CERTIFICATE OF MAILING

Notice of Appeal Filed By: Patrick Daugherty

Re: [138] Judgment

The Notice of Appeal was noticed to the parties, indicated by attachment, by either electronic transmission or U.S. mail on August 11, 2026.

DATED: 8/11/26

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Sheniqua Whitaker, Deputy Clerk

BTXN 113 (rev. 3/18)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s)	§	Case No.: 19−34054−sgj11
Patrick Daugherty Appellant(s)	§	Adversary No.: 25−03055−bwo
vs. Highland Capital Management, L.P. and Highland Claimant Trust Appellee(s)	§	

NOTICE REGARDING THE RECORD FOR A BANKRUPTCY APPEAL

Federal Rule of Bankruptcy Procedure 8009 prescribes the deadlines for filing the designations of items to be included in the record, requires copies to be submitted to the bankruptcy clerk to prepare the record, and directs all parties to "take any other action necessary to enable the clerk to assemble and transmit the record." Fed.R.Bankr.P. 8009(g). The purpose of this notice is to provide guidance on the local application of this rule.

DESIGNATION OF THE RECORD

- If you are the appellant, when designating items for inclusion in the record,
  - ♦ list the following items first, in this order: (1) the notice of appeal, (2) the judgment, order, or decree appealed from, (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court, and (4) the docket sheet;
  - ♦ then list the *other* items to be included, leaving for the end of your list any sealed documents, any exhibits, and any transcripts.
- If you are the appellee, cross−appellant, or cross−appellee and are designating additional items,
  - ♦ list the following items first, in this order: (1) any notice of cross−appeal, (2) any judgment, order, or decree appealed from that the appellant has not designated, and (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court that the appellant has not designated;
  - ♦ then list the *other* items to be included, leaving for the end of your list any sealed documents , any exhibits, and any transcripts.
- All parties designating items to be included in the record on appeal must
  - ♦ for each item, specify the document number shown on the docket sheet. If an item does not have a document number, specify the date the item was filed.

- ♦ If you have designated a transcript that has not been filed, order it immediately by contacting the presiding bankruptcy judge's courtroom deputy or following the instructions at http://www.txnb.uscourts.gov/transcript−and−tape−orders.

ASSEMBLY OF THE RECORD

Within 14 days of filing your designation of the record, pursuant to Rule 8009, submit to the bankruptcy clerk any item that is **not available in the ECF system**, using this procedure:

- Enclose sealed items and non−documentary items (e.g., removable media) in 8.5" x 11" envelopes.
- Copy all other items in PDF files to a removable storage device (e.g., USB drives, DVDs, etc.), organized in the sequence in which they were designated. Limit files to 5.0 MB in size and do not include color.
- Save copies of court exhibits in PDF files to a removable storage device, organized in the sequence in which they are designated. Limit files to 5.0 MB in size and do not include color. (Use a separate removable storage device for each hearing.)
- Label any submission with the case caption and bankruptcy court case and/or adversary proceeding number.

TRANSMITTAL OF THE RECORD

- The bankruptcy clerk will electronically transmit the record to the district clerk. The parties must provide a paper copy of the record, if required.

REQUIREMENTS REGARDING PAPER RECORD

- If the district judge requires a paper copy, the district clerk will notify you that you are required to provide a copy of the items in *your* designation **to the bankruptcy clerk**, for quality review.
- If you are notified to provide a paper copy, organize the record according to the volumes maintained in the **district court's ECF system**.
- Even if a paper copy is not required when an appeal is entered on the docket, the district judge or the district clerk may later notify you that a paper copy is required for the use of the district judge or the court of appeals.

DATED: 8/11/26

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Sheniqua Whitaker, Deputy Clerk

BTXN 049 (rev. 03/15)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s)	§	Case No.: 19−34054−sgj11 Chapter No.: 11
Highland Capital Management, L.P. Plaintiff(s)	§	Adversary No.: 25−03055−bwo
vs. Patrick Hagaman Daugherty et al. Defendant(s)	§	Civil Case No.:
Patrick Hagaman Daugherty Appellant(s)	§	
vs. Highland Capital Management, L.P. and Highland Claimant Trust Appellee(s)	§	

NOTICE OF TRANSMITTAL

I am transmitting:

- ☐ The Motion for leave to Appeal 28 U.S.C. § (USDC Civil Action No. DNC Case).
- ☐ The Motion for Stay Pending Appeal (USDC Action No. − DNC Case).
- ☐ The Proposed Findings of Fact and Conclusions of Law.
- ☐ The Motion to Extend Time To File Designation (USDC Civil Action No DNC Case).
- ☐ On , the Record on Appeal was transmitted. The designation of record or item(s) designated by were not filed when the record was transmitted. The item(s) were filed on awaiting instructions from the assigned district judge.
- ☐ Other
- ☑ Copies of: Notice of appeal, appealed order [138] and supporting documents

TO ALL ATTORNEYS: File all subsequent papers captioned and numbered with the appropriate division of the United States District Clerk's Office. Any questions concerning this proceeding should be directed to the U.S. District Clerk's Office at (214) 753−2200.

DATED: 8/11/26

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Sheniqua Whitaker, Deputy Clerk

BTXN 116 (rev. 07/08)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

APPEAL SERVICE LIST

Transmission of the Record

BK Case No.: 19−34054−sgj11

Adversary No.: 25−03055−bwo

Received in District Court by: _____

Date: _____

Volume Number(s): _____

cc: Brad W Odell
Alicia Barcomb

Attorney(s) for Appellant
US Trustee

Appellant Patrick Daugherty

Jason S. Brookner
Andrew K. York
Joshua D. Smeltzer
J. Reid Burley
Drake M. Rayshell
GRAY REED & McGRAW LLP
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954−4135

Appellee Highland Capital Management, L.P. and Highland Claimant Trust

Jeffrey N. Pomerantz (admitted pro hac vice)
John A. Morris (admitted pro hac vice)
Gregory V. Dmo (admitted pro hac vice)
Hayley R. Winograd (admitted pro hac vice)
PACHULSKI STANG ZIEHL & JONES LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, California 90067
Telephone: (310) 277−6910

And

Melissa S. Hayward
Zachery Z. Annable
HAYWARD PLLC
10501 N. Central Expwy., Suite 106
Dallas, Texas 75231
Telephone: (972) 755−7100

BTXN 150 (rev. 11/10)

In Re:
Highland Capital Management, L.P.

Debtor(s)

Case No.: 19−34054−sgj11
Chapter No.: 11

Highland Capital Management, L.P.

Plaintiff(s)

Adversary No.: 25−03055−bwo

vs.
Patrick Hagaman Daugherty et al.

Defendant(s)

CIVIL CASE COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) **APPELLANT**
Patrick Daugherty

(b) County of Residence of First Listed Party:
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Jason S. Brookner
Andrew K. York
Joshua D. Smeltzer
J. Reid Burley
Drake M. Rayshell
GRAY REED & McGRAW LLP
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954−4135

APPELLEE
Highland Capital Management, L.P. and Highland Claimant Trust

County of Residence of First Listed Party:
(IN U.S. PLAINTIFF CASES ONLY)

Attorney's (If Known)
Jeffrey N. Pomerantz (admitted pro hac vice)
John A. Morris (admitted pro hac vice)
Gregory V. Dmo (admitted pro hac vice)
Hayley R. Winograd (admitted pro hac vice)
PACHULSKI STANG ZIEHL & JONES LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, California 90067
Telephone: (310) 277−6910

And

Melissa S. Hayward
Zachery Z. Annable
HAYWARD PLLC
10501 N. Central Expwy., Suite 106
Dallas, Texas 75231
Telephone: (972) 755−7100

II. BASIS OF JURISDICTION

○ 1 U.S. Government Plaintiff ○ 2 U.S. Government Defendant ◉ 3 Federal Question (U.S. Government Not a Party) ○ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

Citizen of This State	○ 1	○ 1	Incorporated *or* Principal Place of Business In This State	○ 4	○ 4
Citizen of Another State	○ 2	○ 2	Incorporated *and* Principal Place of Business In Another State	○ 5	○ 5
Citizen or Subject of a Foreign Country	○ 3	○ 3	Foreign Nation	○ 6	○ 6

IV. NATURE OF SUIT

◉ 422 Appeal 28 USC 158 ○ 423 Withdrawal 28 USC 157 ○ 890 Other Statutory Actions

V. ORIGIN

◉ 1 Original Proceeding ○ 2 Removed from State Court ○ 3 Remanded from Appellate Court ○ 4 Reinstated or Reopened
○ 5 Transferred from another district ○ 6 Multidistrict Litigation ○ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing **(Do not cite jurisdictional statutes unless diversity):**
422 Appeal 28 USC 158

Brief description of cause:
Notice of appeal of a bankruptcy court order

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23 DEMAND $

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY
Judge: Docket Number: 3:25−cv−02584−E

DATED: 8/11/26

FOR THE COURT:
Stephen J Manz, Clerk of Court
by: /s/Sheniqua Whitaker, Deputy Clerk

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Aug 11, 2026 Form ID: BTXN113 Total Noticed: 6

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Aug 13, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.ty.ecf@usdoj.gov	Aug 11 2026 22:21:00	US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Aug 11 2026 22:21:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Aug 11 2026 22:21:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Aug 11 2026 22:21:00	United States Trustee - MD12, US Trustee's Office, 230 Homer Thornberry Judicial Bldg., 903 San Jacinto Blvd., Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Aug 11 2026 22:21:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Aug 11 2026 22:21:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 6

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Aug 13, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on August 11, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hwinograd@allenmatkins.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hwinograd@allenmatkins.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

BTXN 113 (rev. 3/18)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: Highland Capital Management, L.P. Debtor(s)	§ § §	Case No.: 19−34054−sgj11
Patrick Daugherty Appellant(s)	§ §	Adversary No.: 25−03055−bwo
vs. Highland Capital Management, L.P. and Highland Claimant Trust Appellee(s)	§ § § §	

NOTICE REGARDING THE RECORD FOR A BANKRUPTCY APPEAL

Federal Rule of Bankruptcy Procedure 8009 prescribes the deadlines for filing the designations of items to be included in the record, requires copies to be submitted to the bankruptcy clerk to prepare the record, and directs all parties to "take any other action necessary to enable the clerk to assemble and transmit the record." Fed.R.Bankr.P. 8009(g). The purpose of this notice is to provide guidance on the local application of this rule.

DESIGNATION OF THE RECORD

- If you are the appellant, when designating items for inclusion in the record,
  - ♦ list the following items first, in this order: (1) the notice of appeal, (2) the judgment, order, or decree appealed from, (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court, and (4) the docket sheet;
  - ♦ then list the *other* items to be included, leaving for the end of your list any sealed documents, any exhibits, and any transcripts.
- If you are the appellee, cross−appellant, or cross−appellee and are designating additional items,
  - ♦ list the following items first, in this order: (1) any notice of cross−appeal, (2) any judgment, order, or decree appealed from that the appellant has not designated, and (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court that the appellant has not designated;
  - ♦ then list the *other* items to be included, leaving for the end of your list any sealed documents , any exhibits, and any transcripts.
- All parties designating items to be included in the record on appeal must
  - ♦ for each item, specify the document number shown on the docket sheet. If an item does not have a document number, specify the date the item was filed.

- If you have designated a transcript that has not been filed, order it immediately by contacting the presiding bankruptcy judge's courtroom deputy or following the instructions at http://www.txnb.uscourts.gov/transcript–and–tape–orders.

ASSEMBLY OF THE RECORD

Within 14 days of filing your designation of the record, pursuant to Rule 8009, submit to the bankruptcy clerk any item that is **not available in the ECF system**, using this procedure:

- Enclose sealed items and non–documentary items (e.g., removable media) in 8.5" x 11" envelopes.
- Copy all other items in PDF files to a removable storage device (e.g., USB drives, DVDs, etc.), organized in the sequence in which they were designated. Limit files to 5.0 MB in size and do not include color.
- Save copies of court exhibits in PDF files to a removable storage device, organized in the sequence in which they are designated. Limit files to 5.0 MB in size and do not include color. (Use a separate removable storage device for each hearing.)
- Label any submission with the case caption and bankruptcy court case and/or adversary proceeding number.

TRANSMITTAL OF THE RECORD

- The bankruptcy clerk will electronically transmit the record to the district clerk. The parties must provide a paper copy of the record, if required.

REQUIREMENTS REGARDING PAPER RECORD

- If the district judge requires a paper copy, the district clerk will notify you that you are required to provide a copy of the items in *your* designation **to the bankruptcy clerk**, for quality review.
- If you are notified to provide a paper copy, organize the record according to the volumes maintained in the **district court's ECF system**.
- Even if a paper copy is not required when an appeal is entered on the docket, the district judge or the district clerk may later notify you that a paper copy is required for the use of the district judge or the court of appeals.

DATED: 8/11/26

FOR THE COURT:
Stephen J Manz, Clerk of Court

by: /s/Sheniqua Whitaker, Deputy Clerk

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

In Re: Highland Capital Management, L.P

§

§ Case No 19−34054−SGJ-11

Patrick Daugherty - Appellant § 25-03055

vs §

3:26-CV-02664-S

Highland Capital Management, L.P., et al - Appellee

§

§

[138] Judgment. Entered on 8/7/2026

APPELLANT RECORD

VOLUME 6

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055-bwo
Defendant.	§	
	§	INDEX

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the July 24, 2026 *Judgment and Memorandum Opinion* [Docket Nos. 138, 139 in Adversary No. 25-03055-bwo]. *See Notice of Appeal* [Docket No. 142 in Adversary No. 25-03055-bwo].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court erred in disallowing Daugherty's Reserved Claim based on the Employment Agreement's termination provisions, when the Court itself found the 2009 Compensation Statement was incorporated into the Employment Agreement and resolved its ambiguity in Daugherty's favor, concluding that Highland Capital Management, L.P. ("Highland") intended to compensate Daugherty for any material deviation in his 2008 tax refund.

2. Whether the Bankruptcy Court erred in applying the "no further liability or obligation" language of Sections 4.5 and 4.6 of the Employment Agreement to extinguish Daugherty's compensation entitlement under the 2009 Compensation Statement, when that language pertains to severance contingent upon execution of a separation agreement and not to earned compensation that accrued during Daugherty's active employment.

3. Whether the Bankruptcy Court erred in holding that James Dondero's oral promises to cover Daugherty's contingent tax liability were unenforceable under Texas's statute of frauds, Tex. Bus. & Com. Code § 26.01, when Highland had a main purpose of its own in making the promise and when the Court failed to consider Daugherty's continued employment and forbearance as adequate consideration.

4. Whether the Bankruptcy Court erred in denying Daugherty's counterclaim for specific performance of the Settlement Agreement's books-and-records provision by construing that provision through the statutory categories of 6 Del. C. § 18-305(a), rather than by the plain meaning of the negotiated Settlement Agreement requiring Highland to "transfer its *interests* in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims," including "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system."

5. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of

the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

6. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, inter alia, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

Vol. 1
000001
000008

1. Notice of Appeal for Adversary No. 25-03055-bwo [Docket No. 142].

2. The Judgment Order or Decree appealed from: July 24, 2026 – Judgment [Docket No. 138].

000010

3. July 24, 2026 – Memorandum of Opinion [Docket No. 139].

000035

4. Docket Sheet for Adversary Case No. 25-03055-bwo kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 25-03055-bwo:

Vol. 2

Filing Date	Docket No.	Description
05/02/2025	1	(16 pgs; 3 docs) Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/05/2025	2	(4 pgs; 2 docs) Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3	(2 pgs) Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre-trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us-

000053
000064
000073

Vol. 2

		courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025	4	(4 pgs) Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025	5	(13 pgs; 2 docs) Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025	6	(5 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025	7	(10 pgs) Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025	8	(12 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025	9	(13 pgs; 2 docs) Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025	10	(13 pgs; 2 docs) Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025	11	(43 pgs; 5 docs) Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

000076
000079
000092
000097
000107
000119
000132
000145

Vol. 2

07/28/2025 000188	12	(4 pgs) Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025 000192	13	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025 000195	14	(6 pgs; 2 docs) Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025 000201	15	(13 pgs) Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025 000214	16	(5 pgs) Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)

Vol. 2

08/18/2025	17	(3 pgs) Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025	18	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025	19	(225 pgs; 12 docs) Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)

Vol. 3

09/04/2025	20	(48 pgs; 2 docs) Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/05/2025	23	(3 pgs) Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025	24	(5 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)

09/19/2025	25	(9 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
09/23/2025	27	(13 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
09/23/2025	28	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
09/23/2025	30	(6 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02584-E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
09/25/2025	31	(7 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
09/25/2025	32	(4 pgs) BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
09/26/2025	33	(44 pgs; 2 docs) Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
09/29/2025	34	(1 pg) Request for Transcript regarding a hearing held on 9/4/2025. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

vol. 3

09/30/2025	35	(36 pgs) Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025	36	(6 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025	37	(14 pgs) Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025	38	(11 pgs) Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025	39	(45 pgs; 2 docs) Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)

000592
000628
000634
000648
000659

Vol. 3

000704 10/03/2025	40	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
000707 10/03/2025	41	(6 pgs) Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
000713 10/04/2025	42	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
000729 10/04/2025	43	(13 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)

Vol 4

000742 10/06/2025	44	(29 pgs) Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
000771 10/09/2025	45	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
000774 10/09/2025	46	(3 pgs) Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Morris, John)
000777 10/09/2025	47	(3 pgs) Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
000780 10/09/2025	48	(3 pgs) Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Demo, Gregory)
000783 10/13/2025	49	(9 pgs) Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related

		documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50	(1 pg) Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	51	(6 pgs) Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53	(1 pg) Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25-cv-02584-E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54	(1 pg) Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25-cv-02584-E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55	(3 pgs) Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56	(8 pgs) Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57	(7 pgs) DISTRICT COURT Stipulation concerning supplement to record on appeal re: 3:25-cv-02584-E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of

Vol 4

		issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58	ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25-03055, effective immediately. The Bankruptcy Clerk of Court will re-assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025		Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59	(11 pgs) Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60	(14 pgs; 2 docs) Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61	(156 pgs; 7 docs) Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62	(3 pgs) Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).

000819

000830

000844

Vol. 5

001000

Vol 5

12/29/2025 001003	63	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
12/30/2025 001006	64	(19 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/30/2025 001025	65	(3 pgs) Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/30/2025 001028	66	(14 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/31/2025 001042	67	(14 pgs) Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
01/02/2026 001056	68	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
01/05/2026 001072	69	(12 pgs) Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
01/05/2026 001084	70	(10 pgs; 2 docs) Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
01/08/2026 001094	71	(10 pgs) Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion*

Vol 5			*to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
001104	01/12/2026	72	(4 pgs) Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff

Vol. 5

		Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026 001108	73	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/15/2026 001111	74	(2 pgs) Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)
01/17/2026 001113	76	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
01/23/2026 001117	77	(16 pgs) Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
01/25/2026 001133	78	(18 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
01/26/2026 001151	79	(13 pgs) Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
01/26/2026 001164	80	(13 pgs) Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
01/28/2026 001179	81	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman

Vol 5

		Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026	82	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/09/2026	84	(4 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026	85	(7 pgs) Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026	86	(9 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026	87	(3 pgs) Notice to take deposition of T.J. Liles-Tims filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
02/27/2026	88	(2 pgs) Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026	89	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)

001192
001207
001211
001218
001227
001230
001232

03/10/2026	91	(3 pgs) Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026	93	(5 pgs) Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026	94	(8 pgs) Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026	95	(3 pgs) Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026	96	(10 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)
04/02/2026	97	(8 pgs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)

Vol. 5

001273 04/02/2026	98	(8 pgs) Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
001281 04/08/2026	99	(9 pgs) Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001290 04/10/2026	100	(28 pgs) Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
001318 04/13/2026	101	(28 pgs) Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
001346 04/13/2026	102	(21 pgs) Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
001367 04/14/2026	103	(8 pgs) Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
001375 04/14/2026	104	(8 pgs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
001383 04/15/2026	105	(1782 pgs; 95 docs) Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-01 # 2 Exhibit PD-02 # 3 Exhibit PD-03 # 4 Exhibit PD-04 # 5 Exhibit PD-05 # 6 Exhibit PD-06 # 7 Exhibit PD-07 # 8 List of 20 Largest Creditors PD-08 # 9 Exhibit PD-09 # 10 Exhibit PD-10 # 11 Exhibit PD-11 # 12 Exhibit PD-12 # 13 Exhibit PD-13 # 14 Exhibit PD-14 # 15 Exhibit PD-16 # 16 Exhibit PD-16 # 17 List of 20 Largest Creditors PD-17 # 18 Exhibit PD-18 # 19 Exhibit PD-19 # 20 Exhibit PD-20 # 21 Exhibit PD-21 # 22 Exhibit PD-22 # 23 Exhibit PD-23 # 24 Exhibit PD-24 # 25 Exhibit PD-25 # 26 Exhibit PD-26 # 27 Exhibit PD-27 # 28 Exhibit PD-28 # 29 Exhibit PD-29 # 30 Exhibit PD-30 # 31 Exhibit PD-31 # 32 Exhibit PD-32 # 33 Exhibit PD-33 # 34 Exhibit PD-34 # 35 Exhibit PD-35 # 36 Exhibit PD-36 # 37 Exhibit PD-37 # 38 List of 20 Largest Creditors PD-38 # 39 List of 20 Largest Creditors PD-39 # 40 Exhibit PD-40 # 41 List of 20 Largest Creditors PD-41 # 42 Exhibit PD-42 # 43 Exhibit PD-43 # 44 Exhibit PD-44 # 45 Exhibit PD-45 # 46 Exhibit PD-46 # 47 Exhibit PD-47 # 48 Exhibit PD-48 # 49 Exhibit PD-49 # 50 Exhibit PD-50 # 51 Exhibit PD-51 # 52 Exhibit PD-52 # 53 Exhibit PD-53 # 54 Exhibit PD-54

Vol 5 001383		# 55 Exhibit PD-55 # 56 Exhibit PD-56 # 57 Exhibit PD-57 # 58 Exhibit PD-58 # 59 Exhibit PD-59 # 60 Exhibit PD-60 # 61 Exhibit PD-61 # 62 Exhibit PD-62 # 63 Exhibit PD-63 # 64 Exhibit PD-64 # 65 Exhibit PD-65 # 66 Exhibit PD-66 # 67 Exhibit PD-67 # 68 Exhibit PD-68 # 69 Exhibit PD-69 # 70 Exhibit PD-70 # 71 Exhibit PD-71 # 72 Exhibit PD-72 # 73 Exhibit PD-73 # 74 Exhibit PD-74 # 75 Exhibit PD-75 # 76 Exhibit PD-76 # 77 Exhibit PD-77 # 78 Exhibit PD-78 # 79 Exhibit PD-79 # 80 Exhibit PD-80 # 81 Exhibit PD-81 # 82 Exhibit PD-82 # 83 Exhibit PD-83 # 84 Exhibit PD-84 # 85 Exhibit PD-85 # 86 Exhibit PD-86 # 87 Exhibit PD-87 # 88 Exhibit PD-88 # 89 Exhibit PD-89 # 90 Exhibit PD-90 # 91 Exhibit PD-91 # 92 Exhibit PD-92 # 93 Exhibit PD-93 # 94 Exhibit PD-94) (York, Andrew)
001385	04/15/2026	106 (11 pgs) Joint Motion to file document under seal. *Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (York, Andrew)
Vol. 6 001396 Thru Vol 7	04/15/2026	107 (696 pgs; 66 docs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
Vol 7 002092	04/15/2026	108 (5 pgs) Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
002097	04/15/2026	109 SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital

Vol. 7

		Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	110	SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	111	SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	112	SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	113	SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	114	SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	115	SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	116	SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)

04/15/2026	117	SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118	SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119	SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120	SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121	SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122	SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123	SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124	(30 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)101 Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff

		Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	126	(64 pgs; 5 docs) Support/supplemental document *Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-95 # 2 Exhibit PD-96 # 3 Exhibit PD-97 # 4 Exhibit PD-98) (York, Andrew)
04/16/2026	127	(3 pgs) Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128	(15 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129	(7 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130	(9 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	132	(1 pg) Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133	(1 pg) Request for Transcript regarding a hearing held on 4/17/2026. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

Case 3:25-cv-02664-S Document 12-6 Filed 10/21/26 Page 23 of 523 PageID 1647

Vol. 8	05/18/2026 002228	135	(327 pgs) Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken under advisement; each side to file proposed Findings of Fact and Conclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
Vol. 9	06/05/2026 002555	136	(47 pgs) Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
	06/05/2026 002602	137	(19 pgs) Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
	07/24/2026 002621	138	(2 pgs) Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
	07/24/2026 002623	139	(25 pgs) Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
	07/26/2026 002648	140	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
	07/26/2026 002652	141	(27 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
	08/07/2026 002679	142	(7 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
	08/11/2026 002686	144	(9 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation

		due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146	(4 pgs) DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26-cv-02664-S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147	(4 pgs) BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver of, any and all rights, remedies, challenges and objections.

Respectfully submitted this 2nd day of September, 2026,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of September 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100

Counsel for Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S SECOND AMENDED WITNESS AND EXHIBIT LIST WITH RESPECT TO TRIAL TO BE HELD ON APRIL 17, 2026

Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above-captioned chapter 11 case (the "Bankruptcy Case") and plaintiff/counter-defendant in the above-captioned adversary proceeding (the "Adversary Proceeding"), by and through its undersigned counsel, submits the following second amended witness and exhibit list (the "Second Amended Witness and Exhibit List")[2] with respect to (a) its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1], and (b) *Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Docket No. 1] and Original Counterclaim* [Docket No. 39], which the Court has set for trial at 9:00 a.m. (Central Time) on April 17, 2026 (the "Trial") in the Adversary Proceeding.

A. Witnesses:

1. James P. Seery, Jr.;
2. David Klos;
3. Patrick Daugherty;
4. Trevor Jason Liles-Tims;
5. Any witness identified by or called by any other party; and

[2] This Second Amended Witness and Exhibit List is being filed to attach copies of Highland's exhibits, excepting only Highland's exhibits that are the subject of *Plaintiff Highland Capital Management, L.P. and Defendant Patrick Hagaman Daugherty's Joint Motion for Leave to File Certain Exhibits Under Seal* [Docket No. 106] filed April 15, 2026. The Second Amended Witness and Exhibit List is substantively the same as *Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026* [Docket No. 104] filed April 14, 2026.

6. Any witness necessary for rebuttal.

B. Amended Exhibits:

Number	Exhibit	Offered	Admitted
1.	*Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Doc. No. 1] and Original Counterclaim* [Daugherty Deposition Exhibit H-1]		
2.	Email from John A. Morris dated May 5, 2022 [Daugherty Deposition Exhibit H-2]		
3.	Email from James Seery dated October 19, 2022 [Daugherty Deposition Exhibit H-3]		
4.	Email from John A. Morris dated May 24, 2024 [Daugherty Deposition Exhibit H-4]		
5.	Settlement Agreement dated November 22, 2021 [Daugherty Deposition Exhibit H-5]		
6.	*Patrick Daugherty's Amended Answers to Highland Capital Management, L.P.'s Requests for Admission* dated December 12, 2025 [Daugherty Deposition Exhibit H-6]		
7.	*Patrick Daugherty's Amended Answers to Highland Capital Management, L.P.'s Interrogatories* dated December 12, 2025 [Daugherty Deposition Exhibit H-7]		
8.	Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated February 24, 2004 [Daugherty Deposition Exhibit H-8]		
9.	First Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated April 15, 2006 [Daugherty Deposition Exhibit H-9]		
10.	Second Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. dated April 15, 2007 [Daugherty Deposition Exhibit H-10]		

Number	Exhibit	Offered	Admitted
11.	Amended Employment Agreement (Patrick Daugherty) dated December 31, 2004 [Daugherty Deposition Exhibit H-11]		
12.	Daugherty resignation letter dated September 28, 2011 [Daugherty Deposition Exhibit H-12]		
13.	Patrick Daugherty Comprehensive Compensation and Benefits Statement dated February 27, 2009 [Daugherty Deposition Exhibit H-13]		
14.	Schedule K-1 Form 1065 for Calendar year 2008 for Patrick Daugherty [Daugherty Deposition Exhibit H-14]		
15.	Highland Capital Management Form 4605-A for Period Ending December 31, 2008 [Daugherty Deposition Exhibit H-15]		
16.	Letter from Brian Collins to Patrick Daugherty dated February 3, 2018 [Daugherty Deposition Exhibit H-16]		
17.	Form 886-Z for Patrick Daugherty for Taxable Year Ended December 31, 2008 [Daugherty Deposition Exhibit H-17]		
18.	Form 870-PT (Patrick Daugherty) for Tax Years Ended December 31, 2008 [Daugherty Deposition Exhibit H-18]		
19.	Email From Brian Collins dated July 3, 2018 [Daugherty Deposition Exhibit H-19]		
20.	Email From Brian Collins dated December 9, 2019 [Daugherty Deposition Exhibit H-20]		
21.	May 31, 2024 letter from Hunton to IRS Appeals [HUNTON_000079]		
22.	February 28, 2025 letter from Hunton to IRS Appeals [HUNTON_001105]		
23.	Form 886-A (Explanation of Items) Exhibit FP-01 [HUNTON_001131]		
24.	Form 886-A (Explanation of Items) Exhibit FP-02 [HUNTON_001163]		

Number	Exhibit	Offered	Admitted
25.	Form 886-A (Explanation of Items) Exhibit FP-03 [HUNTON_001170]		
26.	May 2024 email from IRS to Hunton [HUNTON_001120]		
27.	June 2024 email from IRS to Hunton [HUNTON_000076]		
28.	TMP 60-day letter [HUNTON_001124]		
29.	Statutory Internal Revenue Code Guidance Rev. Ruling 2020-28		
30.	Statutory Internal Revenue Code Guidance IRC section 6662 – Imposition of penalties		
31.	Statutory Internal Revenue Code Guidance IRC section 6601 – Interest on underpayment		
32.	Statutory Internal Revenue Code Guidance IRC section 6621 – Determination of interest rate		
33.	Statutory Internal Revenue Code Guidance IRC section 6622 – Interest compounded daily		
34.	Statutory Internal Revenue Code Guidance IRC section 6651 – Failure to pay tax		
35.	2008 Form 1040 (US Individual Income Tax Return) Pat and Kimberly Daugherty [PDADV_010268]		
36.	2008 Form 1045 (Application for Tentative Refund) Pat and Kimberly Daugherty [PDADV_010262]		
37.	Various, including Draft 2008 HCMLP Schedule K-1 to Pat Daugherty [PDADV_010244]		
38.	Email chain from September 2011 between Daugherty and Dondero [PDADV_004224]		
39.	Powerpoint slides to partners [PDADV_000002]		

Number	Exhibit	Offered	Admitted
40.	Dondero to Daugherty email Oct 2011 with separation agreement attached [PDADV_018494]		
41.	Separation agreement attached to Dondero to Daugherty email – Oct 2011 [PDADV_018476]		
42.	Email from Daugherty to Collins February 13, 2018 [PDADV_004796]		
43.	July 14, 2014 Final Judgment		
44.	Copy of Jury Verdict (Feb 2014)		
45.	Daugherty's Original Answer, Counterclaim and Third-Party Petition (May 2012)		
46.	Order on motion to partially vacate final judgment		
47.	Draft TL QA email [DAUGHERTY ROGS01403110]		
48.	Letter Agreement re Partnership Interest dated December 31, 2004 [DAUGHERTY ROGS01404488]		
49.	Claimant Trust Agreement dated August 11, 2021		
50.	Email Highland: Daugherty Settlement (RCP Track Record) [DAUGHERTY ROGS00016698]		
51.	10/24/22 email from Romey (Fwd. Daugherty Settlement Agreement Follow-Up)		
52.	4/1/22 email from JAM (Fwd. HERA and ERA Transfer Documents (execution versions))		
53.	Gray Reed letter Jan 2024 [PDADV_008361]		
54.	Morris email to York Mar 2024 [PDADV_008363]		

Number	Exhibit	Offered	Admitted
55.	Emails between Daugherty and Seery Oct 2022 [PDADV_010229]		
56.	IRS notice April 2018 [PDADV_010999] - CONFIDENTIAL		
57.	Deposition Transcript T.J. Liles-Tims March 23, 2026		
58.	Weaver.com – T.J. Liles-Tims Profile		
59.	Expert Report of T.J. Liles-Tims dated February 13, 2026		
60.	Email from J. Dondero to P. Daugherty dated September 27, 2011 [PDADV_004224]		
61.	Protest letter July 2018 [HUNTON_001182]		
62.	HR spreadsheet [DAUGHERTY ROGS01403106]		
63.	Email from J. Seery dated October 24, 2022 [PDADV_018426]		
64.	Internal Revenue Service Letter dated March 3, 2010 [DAUGHERTY ROGS00640534]		
65.	Highland Demonstrative Exhibit: Estimate of Daugherty's Reserve Claim [Highland D-1]		
66.	Any document entered or filed in Highland Capital Management, L.P.'s chapter 11 Bankruptcy Case or any associated adversary proceeding, including any exhibits thereto		
67.	All exhibits necessary for impeachment and/or rebuttal purposes		
68.	All exhibits identified by or offered by any other party at the Trial		

Dated: April 15, 2026

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on April 15, 2026, a true and correct copy of the foregoing *Second Amended Witness and Exhibit List* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

EXHIBIT 1

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Exhibit
H-1
Daugherty 1/29/2026 L.M.

19340543510030000000000012
001405

PATRICK DAUGHERTY'S ANSWER TO PLAINTIFF HIGHLAND CAPITAL MANAGEMENT, L.P.'S COMPLAINT FOR (1) DISALLOWANCE OF CLAIM NO. 205 IN ITS ENTIRETY, (2) ESTIMATION OF CLAIM NO. 205 FOR ALLOWANCE PURPOSES, OR (3) SUBORDINATION OF ANY ALLOWED PORTION OF CLAIM NO. 205 OF PATRICK HAGAMAN DAUGHERTY [DOC. NO. 1] AND ORIGINAL COUNTERCLAIM[2]

Defendant Patrick Daugherty files this Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Doc. No. 1] and Original Counterclaim and would respectfully show the Court as follows:

I. ANSWER TO PRELIMINARY STATEMENT

1. Daugherty admits that he is a former employee of, and former limited partner as a profits interest holder in, Highland. Daugherty admits that he asserted a creditor's claim (Claim No. 205) against Highland and that he and Highland entered into a binding settlement agreement. Daugherty denies the remaining allegations in Paragraph 1.

2. Daugherty denies the allegations in Paragraph 2 based on Highland's characterization of the funds Daugherty received from Highland and the effect of those funds on his claims.

3. Daugherty denies the allegations in Paragraph 3.

[2] Daugherty files this Answer and Counterclaim without waiving the rights and arguments he asserts in his September 26, 2025 Motion to Stay Pending Appeal [Doc. No. 33] currently pending before the Court, as well as his Motion to Dismiss [Doc. No. 5] which the Court denied on September 5, 2025 [Doc. No. 23].

4. Daugherty admits that his remaining claim against Highland depends, at least in part, on the result of the IRS' "final determination" of Highland's 2008 tax return. Daugherty denies the remaining allegations in Paragraph 4.

II. ANSWER TO JURISDICTION AND VENUE

5. Daugherty admits the allegations in Paragraph 5.

6. Daugherty admits the allegations in Paragraph 6.

7. Daugherty admits the allegations in Paragraph 7.

8. Daugherty admits the allegations in Paragraph 8.

III. ANSWER TO PARTIES

9. Daugherty admits the allegations in Paragraph 9.

10. Daugherty admits the allegations in Paragraph 10.

IV. ANSWER TO STATEMENT OF FACTS

11. Daugherty admits the allegations in Paragraph 11.

12. Daugherty admits the allegations in Paragraph 12.

13. Daugherty admits the allegations in Paragraph 13.

14. Daugherty admits the allegations in Paragraph 14.

15. Daugherty admits the allegations in Paragraph 15.

16. Daugherty admits that he was hired by Highland in 1998 and that he later became eligible to participate in various Highland incentive plans including Highland's long-term incentive plan. Daugherty denies the remaining allegations in Paragraph 16.

17. Daugherty admits the Highland was a limited partnership and a pass-through entity as alleged in Paragraph 17 but denies any actual or implied characterization that Daugherty's 2008

pre-tax refund was based on taxable losses or that he or any partner other that Dondero, Okada, and their affiliates were ever allowed to participate in pass-through distributions from Highland.

18. Daugherty admits that Highland provided him with the Comprehensive Compensation and Benefits Statement, but Daugherty denies the allegation that such statement was entirely accurate and reserves the right to dispute same.

19. Daugherty admits that the Comprehensive Compensation and Benefits Statement included a characterized estimated tax refund, but Daugherty denies the allegation that such statement was entirely accurate and reserves the right to dispute the same. Daugherty otherwise denies any remaining allegations in Paragraph 19.

20. In response to the allegations in Paragraph 20, Daugherty admits that Highland provided him with the Comprehensive Compensation and Benefits Statement, but Daugherty denies the allegation that such statement was entirely accurate and reserves the right to dispute same.

21. Daugherty denies the characterization of the allegations in Paragraph 21 to the extent that the quotes cited therein refer to non-binding statements or assertions made by or to Daugherty.

22. Daugherty admits that the allegations in Paragraph 22 reflect some of what was included on the 2008 K-1, but Daugherty denies the reference to him receiving what "he was promised . . . if not more" to the extent it refers to something that alters the relevant, binding contractual language.

23. Daugherty admits that the IRS began an audit of Highland's 2008 tax return but denies that all "obligations" to Daugherty have been satisfied. To the best of Daugherty's belief, the IRS audit is not yet fully resolved.

24. Daugherty admits that he terminated his employment with Highland on October 31, 2011, because of improprieties regarding treatment of investor accounts, among other things, but Daugherty denies the allegations to the extent Highland interprets them to constitute a waiver on Daugherty's behalf.

25. Daugherty admits that Claim No. 205 originally estimated Highland was liable to him for $2,650,353 among other costs. Daugherty otherwise denies the allegations in Paragraph 25.

26. Daugherty denies the allegations in Paragraph 26.

27. Daugherty denies the allegations in Paragraph 27.

V. ANSWER TO CLAIMS FOR RELIEF

28. Daugherty denies the allegations in Paragraph 28 to the extent they seek to present prior opinions and legal conclusions as statements of verifiable fact.

29. Paragraph 29 contains statements that are legal conclusions for which no response is required. To the extent a response is required Daugherty denies the allegations.

30. Paragraph 30 contains statements that are legal conclusions for which no response is required. To the extent a response is required Daugherty denies the allegations.

31. Daugherty admits that he earned bonus compensation from Highland in 2008 that was allocatable to him pursuant to Highland's decision to fund the bonus with the tax refund scheme, but Daugherty denies Highland's characterization of same in the allegations in Paragraph 31.

32. Daugherty denies the allegations in Paragraph 32.

33. Daugherty denies the allegations in Paragraph 33.

34. Daugherty denies the allegations in Paragraph 34 to the extent they seek to present prior opinions and legal conclusions as statements of verifiable fact.

35. Daugherty denies the allegations in Paragraph 35.

36. Paragraph 36 contains statements that are legal conclusions for which no response is required. To the extent a response is required Daugherty denies the allegations and further denies the statute governs given the express language of the settlement agreement between Daugherty and Highland.

37. Daugherty admits the allegations in the first sentence of Paragraph 37. Daugherty lacks information to admit or deny the second sentence of Paragraph 37 and therefore denies it.

38. Daugherty admits the allegations in Paragraph 38.

39. Daugherty denies the allegations (and requests for relief) in Paragraph 39.

40. Daugherty denies the allegations in Paragraph 40 to the extent they seek to present prior opinions and legal conclusions as statements of verifiable fact.

41. Paragraph 41 contains legal conclusions for which a response is not required. To the extent a response is required Daugherty denies the allegations.

42. Paragraph 42 contains legal conclusions for which a response is not required. To the extent a response is required, Daugherty denies the allegations.

43. Daugherty admits he owned the Partnership Interests in the form of a profits interest in Highland but denies the remaining allegations in Paragraph 43.

44. Daugherty denies the allegations in Paragraph 44.

45. Daugherty denies the allegations (and request for relief) in Paragraph 45.

VI. PRAYER

Daugherty denies that Highland is entitled to any of the relief requested in its Complaint, or to any relief whatsoever, and requests that Highland's claims be dismissed with prejudice. Daugherty further requests that the Court award it costs and any other relief the Court deems proper.

VII. AFFIRMATIVE DEFENSES

1. Further answering Highland's claims, Daugherty asserts the following defenses without assuming any burden that he would not otherwise have, including without admitting or acknowledging that he bears the burden of proof as to any of the defenses denoted herein.

Prior Material Breach

2. Highland's claims are barred in whole or in part by its prior material breach of the governing employment agreement as well as the settlement agreement previously approved by this Court.

Failure to State a Claim

3. Highland's claims are barred in whole or in part by their failure to state a claim upon which relief can be granted.

Equitable Estoppel

4. Highland's claims are barred in whole or in part by the doctrine of equitable estoppel. Highland and Daugherty entered into a binding settlement agreement wherein Daugherty gave up various rights and claims in exchange for a bargained-for agreement that Highland would not commence litigation under the IRS has concluded audit of Highland's 2008 tax return. Highland's decision to seek judicial modification of a binding contract prevents it from having the

equitable right to relief. Highland should be estopped from bringing the immediate litigation against Daugherty.

Failure of Consideration

5. Highland's claims fail because they are based upon a settlement agreement that was modified without consideration. Daugherty and Highland engaged in robust and detailed negotiations that ultimately culminated in the binding settlement agreement between the parties. Highland's decision to seek judicial modification of the settlement agreement—without providing substitute consideration to Daugherty—renders the Settlement Agreement unenforceable due to failure of consideration.

COUNTERCLAIM AGAINST PLAINTIFF/COUNTER DEFENDANT HIGHLAND CAPITAL MANAGEMENT, L.P.

Defendant/Counter-Plaintiff Patrick Hagaman Daugherty files this Original Counterclaim Against Plaintiff/Counter-Defendant Highland Capital Management, L.P. and would show the Court as follows:

PRELIMINARY STATEMENT

1. On November 22, 2021, Daugherty and Highland signed a Settlement Agreement wherein Daugherty acquired the "interests in HERA and ERA." The Settlement Agreement also mandated that Highland transfer the books and records of HERA (Highland Employee Retention Assets LLC) and ERA (Highland ERA Management LLC) that are "maintained on HCMLP's system." Despite demand, however, Highland refused and failed to turn over all books and records in its possession related to HERA and ERA – entities that Daugherty and his affiliates now own in their entirety. Highland's failure in this regard is a breach of the Settlement Agreement.

2. Daugherty's demand is even more urgent given Highland's latest filing in the main bankruptcy through which Highland seeks to destroy a significant amount of the records in its possession (under the guise of saving $7,500/month). As the Court is aware, there is extensive litigation between HERA and Dondero and his enablers in other forums. Daugherty bargained for and obtained the interests in HERA and acquired the rights to the HERA books and records in Highland's possession. HERA needs those books and records to continue litigating its claims against James Dondero and other former Highland employees and representatives. The Court should enforce the Settlement Agreement as written and require Highland to turn over to Daugherty what is rightfully his.

JURISDICTION AND VENUE

3. Jurisdiction and venue are proper in this Court for the reasons alleged and authorities cited in Highland's Complaint [Doc. No. 1] and pursuant to Federal Rule of Civil Procedure 13, as incorporated by Federal Rule of Bankruptcy Procedure 7013.

PARTIES

4. Defendant/Counter-Plaintiff Patrick Hagaman Daugherty is an individual residing in the State of Texas.

5. Plaintiff/Counter-Defendant Highland Capital Management, L.P. is a Delaware limited partnership with its principal place of business located at 100 Crescent Court, Suite 1850, Dallas, Texas 75201. Highland has appeared in this adversary proceeding through its attorneys of record.

FACTUAL BACKGROUND

6. Daugherty and Highland executed a Settlement Agreement on November 22, 2021, that provided clarity for both parties as the main bankruptcy case proceeded towards confirmation.

Main Case Docket No. 3088, 3089.[3] The Court approved the Settlement Agreement on March 8, 2022. *Id.*

7. Through the Settlement Agreement, Highland agreed to transfer to Daugherty Highland's interests in Highland Employee Retention Assets LLC ("HERA") and ERA Management, LLC ("ERA"). Specifically, the Settlement Agreement provided that, "[Highland] will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on [Highland's] system." *Id.*

8. The Settlement Agreement was not permissive or discretionary in this regard. The Settlement Agreement required that Highland "will" do these things. Since March 2022, however, Daugherty has made several requests to Highland that it comply with the Settlement Agreement by turning over all of the HERA and ERA books and records. To date, Highland has not complied – and in fact has refused to do so. Daugherty, therefore, brings this counterclaim against Highland.

CAUSES OF ACTION

Count I – Breach of Contract

9. Daugherty incorporates by reference the above paragraphs.

10. On November 22, 2021, after extensive negotiations, Daugherty and Highland executed a binding contract – the Settlement Agreement. The Court approved the Settlement Agreement on March 8, 2022.

11. Daugherty performed and satisfied all obligations that the Settlement Agreement imposed upon him.

[3] All capitalized terms used but not defined in this motion shall have the same definitions as they have in the Settlement Agreement at Main Case Doc. No. 3089. The Settlement Agreement is also attached as Exhibit A.

12. Highland breached the Settlement Agreement by refusing to turn over all the HERA and ERA books and records in Highland's possession. Settlement Agreement at ¶ 8 (Highland agreed to turn over to Daugherty all "interests in HERA and ERA to Daugherty…Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system.").

13. HERA is currently engaged in litigation with Dondero and others in the case styled *Highland Employee Retention Assets LLC v. James Donero, et al.*, Civil Action No. 3:24-cv-00498-K, pending in the United States District Court for the Northern District of Texas. That litigation centers on Dondero's mismanagement of the monetary contributions that numerous Highland employees made into retirement vehicles managed by HERA. But because of Dondero's and others' underhanded efforts to fraudulently transfer assets to benefit themselves and others, those contributions were funneled out of HERA and into various entities and accounts controlled by Dondero, Okada, Ellington and their affiliates.

14. Daugherty bargained for and obtained Highland's interests in HERA as well as Highland's books and records related to HERA. There is no question that Highland breached the Settlement Agreement by refusing to turn over all of those books and records. And as evidenced by Highland's Motion for Order Authorizing Destruction of Documents filed in the main bankruptcy, Highland clearly has no intention of honoring its commitment to turn over documents. *See* Main Bankruptcy Doc. No. 4416. In fact, Highland wants to destroy the very records it contractually promised to turn over to Daugherty.

15. Daugherty asks this Court to find that Highland breached the Settlement Agreement.

Count II – Specific Performance

16. Daugherty incorporates by reference the above paragraphs.

17. The Settlement Agreement is a binding contract that Daugherty has not repudiated or breached.

18. Daugherty performed and satisfied all obligations that the Settlement Agreement imposed upon him.

19. Highland breached the Settlement Agreement by refusing to turn over all the HERA and ERA books and records in Highland's possession. Settlement Agreement at ¶ 8 (Highland agreed to turn over to Daugherty all "interests in HERA and ERA to Daugherty…Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system.").

20. At all relevant times, Daugherty has been ready, willing, and able to work with Highland to effectuate the transfer of the HERA and ERA books and records.

21. Because of Highland's unique position as the sole custodian of the HERA and ERA books and records that Highland agreed to turn over to Daugherty, the circumstances are such that Daugherty cannot recover absent the Court ordering specific performance. The Court's specific performance order against Highland would be the just result, as the balance of equities tips in favor of Daugherty. *See generally Osborn v. Kemp*, 991 A.2d 1153, 1158 (Del. 2010).

22. If the Court does not order Highland to comply with the terms of the Settlement Agreement and turn over the relevant books and records, Daugherty will be irreparably harmed. HERA will be unable to adequately pursue its litigation against Dondero, Okada, Ellington and the others.

Count III – Attorneys' Fees

23. Daugherty incorporates by reference the above paragraphs.

24. As a result of Highland's bad faith conduct and breach of the Settlement Agreement, Daugherty has been forced to retain the services of the undersigned counsel to pursue his claims in this case. Because Delaware law governs the Settlement Agreement, Daugherty asks the Court to award him his reasonable and necessary attorneys' fees due to Highland's bad faith conduct. *See generally Tandycrafts, Inc. v. Initio Partners*, 562 A.2d 1162, 1164 (Del. 1989); *see also Slawik v. State*, 480 A.2d 636, 639 n. 5 (Del. 1984). The requirements of the Settlement Agreement are clear – Highland "will" turn over the HERA and ERA books and records to Daugherty. In bad faith, Highland has refused to do so, and the Court should award Daugherty his attorneys' fees accordingly.

CONCLUSION AND PRAYER

Defendant Patrick Hagaman Daugherty prays that the Court render final judgment that Highland takes nothing by its suit and award Daugherty a judgment against Highland for:

a. Specific performance against Highland that it be required to turn over the books and records in its possession related to HERA and ERA;

b. Daugherty's actual and compensable damages, if any;

c. Daugherty's reasonable and necessary attorneys' fees;

d. All costs of court;

e. Post-judgment interest accruing on the foregoing amounts at the maximum rate allowed by law; and

f. Any such further relief, both general and specific, legal or equitable, to which Daugherty may be justly entitled.

Dated: October 3, 2025.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 3rd day of October 2025, via the CM/ECF system and/or email.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
jpomerantz@pszjlaw.com
John A. Morris
jmorris@pszjlaw.com
Gregory V. Demo
gdemo@pszjlaw.com
Hayley R. Winograd
hwinograd@pszjlaw.com

HAYWARD PLLC
Melissa S. Hayward
MHayward@HaywardFirm.com
Zachery Z. Annable
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Suite 106
Dallas, Texas 75231
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067

Counsel for Highland Capital Management, L.P.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT A

Final Execution Copy

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement") is made and entered into by and between (i) Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), and (ii) Patrick Hagaman Daugherty ("Daugherty" and together with HCMLP, the "Parties," and individually as a "Party"). This Settlement provides for the treatment of certain claims asserted by Daugherty against the Debtor, and for the Parties to take certain other specified actions in settlement thereof.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, the Debtor's chapter 11 case (the "Bankruptcy") is pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, on February 2 and 3, 2021, the Court conducted a confirmation hearing with respect to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) [Docket No. 1808] (the "Plan");

WHEREAS, on February 8, 2021, the Court rendered an opinion from the bench in which it confirmed the Plan [Docket No. 1924];

WHEREAS, on February 22, 2021, the Court issued an order confirming the Plan [Docket No. 1943];

WHEREAS, on August 11, 2021, the Effective Date (as defined in the Plan) occurred [Docket No. 2700];

WHEREAS, Daugherty is a former employee and limited partner of the Debtor and has

served in other positions with affiliates and former affiliates of the Debtor;

WHEREAS, at the time of his resignation, Daugherty owned 19.1% of the preferred units of Highland Employee Retention Assets LLC ("HERA"), an employee deferred compensation vehicle managed by the Debtor and Highland ERA Management, LLC ("ERA") and contends that he owned or had the right to own all of the preferred units of HERA;

WHEREAS, prior to his resignation from HCMLP, Daugherty was awarded units of HERA, which vehicle owned interests in Restoration Capital Partners, LP ("RCP"), an HCMLP managed private equity fund, and other investments;

WHEREAS, in April 2012, the Debtor commenced an action against Daugherty in Texas state court (the "Texas Action"), and Daugherty subsequently asserted counterclaims for breach of contract and defamation, and third-party claims against HERA and others;

WHEREAS, after a three-week trial, the jury returned a verdict partially in favor of the Debtor, but Daugherty prevailed on his claims against the Debtor and James Dondero ("Dondero") for defamation with malice and a third-party claim against HERA and was awarded damages of $2.6 million against HERA, plus prejudgment and post-judgment interest at 5% (the "HERA Judgment");[1]

WHEREAS, in July 2017, after being unable to collect on the HERA Judgment, Daugherty commenced an action against the Debtor, Dondero, HERA, and ERA Management in the Delaware Chancery Court (the "Delaware Court"), in a case captioned *Daugherty v. Highland Capital Management, L.P., et al.*, C.A. No. 2017-0488-MTZ, for fraudulent transfer, promissory estoppel, unjust enrichment, indemnification, and fees on fees (the "Highland Delaware Case");

[1] The Debtor prevailed on its claims against Mr. Daugherty for breach of contract and breach of fiduciary duty for non-monetary damages and obtained an award of $2.8 million in attorney's fees. The HERA Judgment was affirmed on appeal on December 1, 2016.

WHEREAS, the Delaware Court in the Highland Delaware Case (i) found that the Dondero-related defendants improperly withheld dozens of documents in discovery on privilege grounds, and (ii) ruled that there was "a reasonable basis to believe that a fraud has been perpetrated" such that the Delaware Court applied the "crime-fraud exception" to the attorney-client privilege assertion, and such rulings have not been overturned;

WHEREAS, Daugherty asserts that such withholding of documents and the failure to search defendants' and their employees personal electronic devices for stored documents and texts as well as other emails and domain names such as sasmgt.com and gmail.com which were in their possession and control and to provide required discovery injured him by undermining his attempts to build an evidentiary record to support his claims against the Debtor and the other defendants in the Highland Delaware Case;

WHEREAS, on October 14, 2019, the Highland Delaware Case proceeded to trial and two days later, on October 16, 2019, before the completion of the trial and before the Delaware Court ruled on Daugherty's and the Debtor's cross-motions for summary judgment regarding indemnification and fees on fees, the Debtor filed for bankruptcy;

WHEREAS, on December 1, 2019, Daugherty filed a separate lawsuit in the Delaware Court, captioned *Daugherty v. Dondero, et al.*, C.A. No. 2019-0956-MTZ, against Dondero, HERA, ERA, Hunton Andrews Kurth LLP ("Andrews Kurth"), Marc Katz ("Katz"), Michael Hurst ("Hurst"), the Debtor's Chief Compliance Officer, the Debtor's then in-house counsel (Isaac Leventon ("Leventon")), and the Debtor's then general counsel (Scott Ellington ("Ellington")), for conspiracy to commit fraud, among other claims (the "HERA Delaware Case" and together with the Highland Delaware Case, the "Delaware Cases");

WHEREAS, on April 1, 2020, Daugherty filed a general, unsecured, non-priority claim

against the Debtor in the amount of at "least $37,483,876.59," and such claim was denoted by the Debtor's claims agent as Proof of Claim No. 67 ("Proof of Claim No. 67");

WHEREAS, on April 6, 2020, Daugherty filed a general, unsecured, non-priority claim against the Debtor in the amount of at "least $37,482,876.62" that superseded Proof of Claim No. 67 and that was denoted by the Debtor's claims agent as Proof of Claim No. 77 ("Proof of Claim No. 77");

WHEREAS, on August 31, 2020, the Debtor commenced an adversary proceeding against Daugherty by filing a complaint (the "Complaint") in which the Debtor: (1) objected to Proof of Claim No. 77 on various grounds (the "Claim Objection"), and (2) asserted a cause of action for the subordination of part of Daugherty's claim pursuant to section 510(b) of the Bankruptcy Code. Adv. Proc. No. 20-03107 (the "Adv. Proc.") [Adv. Docket No. 1] (the "Adversary Proceeding");

WHEREAS, on September 29, 2020, Daugherty filed his answer to the Complaint [Adv. Docket No. 8] (the "Answer");

WHEREAS, on September 24, 2020, Daugherty filed his *Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay* [Docket No. 1099] (the "Stay Motion") pursuant to which he sought to sever the Debtor from the Highland Delaware Case and then consolidate the remaining claims in the Highland Delaware Case into the HERA Delaware Case and proceed with one case against the non-Debtor parties;[2]

WHEREAS, on October 23, 2020, Daugherty filed a motion seeking leave to amend his Proof of Claim No. 77 [Docket No. 1280] (the "POC Amendment Motion"). The amended proof

[2] On October 8, 2020, the Debtor commenced a second adversary proceeding against Daugherty (the "Second Adversary Proceeding"), seeking to enjoin him from prosecuting the Delaware Cases. Adv. Proc. 20-03128 ("2d Adv. Proc.") [2d Adv. Proc. Docket No. 1]. On January 29, 2021, the parties filed a Settlement that resolved the Second Adversary Proceeding, and the Second Adversary Proceeding was subsequently dismissed with prejudice. [2d Adv. Proc. Docket No. 12].

of claim attached to the POC Amendment Motion increased Daugherty's general, unsecured, non-priority claim against the Debtor to the amount of at "least $40,410,819.42" and sought to supersede Proof of Claim No. 67 and Proof of Claim No. 77;

WHEREAS, on October 23, 2020, Daugherty filed his *Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Motion*, seeking for his Claim to be temporarily allowed for voting purposes in this amount of $40,410,819.42 [Docket No. 1281] (the "3018 Motion");

WHEREAS, on November 3, 2020, the Court granted the Stay Motion [Docket No. 1327];

WHEREAS, the Debtor opposed the 3018 Motion, and after conducting an evidentiary hearing for the limited purpose of determining the 3018 Motion, the Court entered an order temporarily allowing Daugherty's Claim only for voting purposes in the amount of $9,134,019 [Docket No. 1474];

WHEREAS, on December 10, 2020, the Court entered an order [Docket No. 1533] granting the POC Amendment Motion, and Daugherty was permitted to file an amendment to his proof of claim. On December 23, 2020, Daugherty filed an amended proof of claim, designated by the Debtor's claim agent as Proof of Claim No. 205 ("Proof of Claim No. 205" or the "Daugherty Claim"). Proof of Claim No. 205 superseded Proof of Claim No. 77 and increased the amount of the Daugherty's Claim to $40,710,819.42;

WHEREAS, on November 30, 2020, Daugherty filed his Motion to Lift the Automatic Stay (the "Lift Stay Motion") [Docket No. 1491] seeking to lift the automatic stay to allow him to finish his trial in the Delaware Court and liquidate his claims. The Debtor opposed the Lift Stay Motion, and after a hearing was held on December 17, 2020, the Court denied the relief requested in the Lift Stay Motion [Docket No. 1612];

WHEREAS, except with respect to the Reserved Claim (as defined below), the Parties have agreed to settle and resolve all claims and disputes between them and their respective current affiliates, managed entities, and employees, including the Daugherty Claim, on the terms set forth in this Settlement:

AGREEMENT

NOW, THEREFORE, after good-faith, arms-length negotiations, and in consideration of the foregoing, it is hereby stipulated and agreed that:

1. Allowed Claims: In full satisfaction of the entirety of the Daugherty Claim against the Debtor and HCMLP Released Parties (defined below), excluding the Reserved Claim, Daugherty shall receive (a) an allowed general unsecured Class 8 claim in the amount of $8,250,000; (b) an allowed subordinated general unsecured Class 9 claim in the amount of $3,750,000; and (c) a one-time lump sum cash payment in the amount of $750,000 to be paid within 5 business days of Bankruptcy Court approval of this Settlement Agreement.

2. Recovery: The Debtor makes no representation or warranty as to the recovery on Class 8 or Class 9 claims under the Plan.

3. Observation Access: As soon as practicable following entry of an order of the Bankruptcy Court approving this Settlement, HCMLP shall use reasonable efforts to petition the Claimant Trust Oversight Board[3] to permit Daugherty to have access as an observer to meetings of the Claimant Trust Oversight Board, subject to policies, procedures, and agreements applicable to other observers of the Claimant Trust Oversight Board, including policies, procedures, and agreements related to confidentiality and common interest. Whether Daugherty will be granted observer access and any continuing observer access is and will remain at the sole discretion of the

[3] The Claimant Trust Oversight Board refers to the Oversight Board as defined in the August 11, 2021 Highland Claimant Trust Agreement establishing the Claimant Trust, as defined therein.

Claimant Trust Oversight Board.

4. RCP Track Record: HCMLP shall use reasonable efforts to provide Daugherty with data constituting the investment performance track record of RCP during Daugherty's tenure at HCMLP. Daugherty shall not be entitled to any compensation with respect to the performance of RCP. HCMLP makes no representations or warranties regarding such data and takes no responsibility with respect to the use of such data for any purposes.

5. Daugherty Releases: Except as specifically provided in this paragraph 5, and to the maximum extent permitted by applicable law, the Debtor, on behalf of itself and each of the HCMLP Entities and HCMLP Parties (as those terms are defined in paragraph 6 below), hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue Daugherty, his successors, affiliates, and assigns, (and in each such category to include their respective advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, and designees) (collectively, the "Daugherty Additional Release Parties" and together with Daugherty, the "Daugherty Released Parties"), in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, or the Delaware Cases, all existing as of the date hereof (collectively, the "HCMLP Released Claims"); provided, however, that such release shall not

apply with respect to any and all defenses that HCMLP or the HCMLP Entities may have to the Reserved Claim or the Reserve Motion (as those terms are defined herein) or Daugherty's obligations under this Settlement. For the avoidance of doubt, the HCMLP Released Claims include all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

6. HCMLP Releases: Except as specifically provided in this paragraph 6, and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Released Parties, hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (a)(i) HCMLP; (ii) Strand Advisors Inc.; (iii) the Claimant Trust; (iv) the Claimant Trust Oversight Board; (v) the Highland Litigation Sub-Trust; (vi) the Highland Indemnity Trust; (vii) any entity of which greater than fifty percent of the voting ownership is held directly or indirectly by HCMLP as of the date hereof and any entity otherwise directly or indirectly controlled by HCMLP as of the date hereof,; and (viii) any entity managed by either HCMLP or a direct or indirect subsidiary of HCMLP, including Highland Restoration Capital Partners, L.P., Highland Restoration Capital Partners Offshore, L.P., Highland Restoration Capital Master, L.P. (and all of their respective general partners, feeder funds, managers, and affiliates) (the foregoing (a)(i) through (a)(viii) the "HCMLP Entities"), and (b) with respect to each such HCMLP Entity, such HCMLP Entity's respective current (meaning employed in their respective roles as of the date hereof) advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders (but not the shareholders of Strand Advisors Inc.), agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns, except as expressly set forth below (the "HCMLP Parties," and together with the

HCMLP Entities, the "HCMLP Released Parties"),[4] in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, or the Highland Delaware Case (collectively, the "Daugherty Released Claims"); provided, however, that such release shall not apply with respect to the Reserved Claim or the Reserve Motion (as those terms are defined in paragraph 9 below) or HCMLP's obligations under this Settlement. This release expressly applies to all current employees of HCMLP as the Reorganized Debtor (as defined in the Plan), in their capacities as such. For the avoidance of doubt, the Daugherty Released Claims includes all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

7. Reservation of Daugherty Rights: Notwithstanding anything contained herein to the contrary, the term HCMLP Released Parties shall not include (a) NexPoint Advisors, L.P. (or any of its subsidiaries and employees, advisors, or agents), (b) the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and any of their respective employees, advisors, or agents), (c) NexBank, SSB (or any of its subsidiaries, employees, advisors, or agents), (d) James Dondero or any trust in which Dondero or any of his family members are a trustee or beneficiary (or any trustee acting for such trust), including but not limited to Hunter

[4] The Daugherty Additional Released Parties and the HCMLP Released Parties are collectively referred to as the "Additional Released Parties."

Mountain Investment Trust, The Get Good Trust, Dugaboy Investment Trust, SLHC Investment Trust, (e) HERA (subject to paragraph 8 below), (f) ERA (subject to paragraph 8 below), (g) Grant Scott, (h) Mark Okada and any trust in which Mark Okada or any of his family members are a beneficiary (or any trustee acting for such trust in their respective capacities), (i) Ellington, (j) Leventon, (k) Katz, (l) Hurst, (m) Andrews Kurth, or (m) any other former employee (as of the date hereof) of the HCMLP Released Parties.

8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

10. Current HCMLP Employees: The HCMLP Parties set forth on **Appendix A** hereto are currently employed by the Debtor are HCMLP Released Parties. By executing a copy of this Settlement and delivering it to Daugherty, each of the persons on Appendix A agrees not to sue, attempt to sue, or threaten or work with or assist any entity or person to sue, attempt to sue, or threaten any Daugherty Released Party on or in connection with any claim or cause of action arising prior to the date of this Settlement.

11. Dismissal and Motions in Other Actions. Within ten business days after approval of this Settlement by the Bankruptcy Court, the Parties shall take all steps necessary (a) to dismiss with prejudice (i) the Highland Delaware Case, as against the Debtor and any HCMLP Released Party, and (ii) the HERA Delaware Case, as against every HCMLP Released Party, (b) to file an agreed motion and proposed order to partially vacate the final judgment entered against Daugherty

in the Texas Action, (c) withdraw HCMLP's objection to the Daugherty motion to recuse in the Texas Action, and (d) to dismiss the Adversary Proceeding with prejudice. The parties shall file the foregoing motions and withdrawals substantially in the form of the documents annexed hereto as **Exhibit B**.

12. Additional Third Party Claims Discovery: The Debtor (a) shall accept service of any subpoenas via email served by Daugherty in connection with the Delaware Cases on behalf of itself, the HCMLP Entities, the HCMLP Parties (but only in their capacity as employees of HCMLP); and (b) acknowledge and consent to the jurisdiction of the Delaware Chancery Court for purposes of enforcing any such subpoenas, subject in all respects to the rights that the HCMLP Entities and HCMLP Parties to defend the requested production, if any.

13. Settlement of Third Party Claims: Daugherty shall not settle any claims or causes of action against any current or former director, officer, employee, agent or representative of HCMLP or Strand Advisors Inc. (collectively, the "Potentially Indemnified Parties") to the extent such claims have been brought or could have been brought against any Potentially Indemnified Parties, if any such settlement designates, defines or describes the settled claims as arising out of or relating to simple negligence or as having otherwise been within the scope of employment of the Potentially Indemnified Party.

14. Claims Register: As soon as practicable after the Settlement Effective Date, HCMLP shall instruct the claims agent in the Debtor's chapter 11 case to adjust the claims register in accordance with this Settlement.

15. Daugherty Representations: Daugherty represents and warrants to each of the HCMLP Released Parties that (a) he has full authority to release the Daugherty Released Claims and has not sold, transferred, or assigned any Daugherty Released Claim to any other person or

entity and that (b) no person or entity other than Daugherty has been, is, or will be authorized to bring, pursue, or enforce any Daugherty Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) Daugherty.

16. HCMLP Representations: Each of HCMLP and each HCMLP Released Party who has signed this Settlement represents and warrants to Daugherty that (a) he, she or it has not sold, transferred, pledged, assigned or hypothecated any HCMLP Released Claim to any other person or entity and (b) he, she, or it has full authority to release any HCMLP Released Claims that such HCMLP Released Party personally has against Daugherty.

17. Additional HCMLP Representations: HCMLP represents and warrants that it is releasing the HCMLP Released Claims on behalf of the HCMLP Entities to the maximum extent permitted by any contractual or other legal rights HCMLP possesses. To the extent any of the HCMLP Entities dispute HCMLP's right to release the HCMLP Released Claims on behalf of any of the HCMLP Entities, HCMLP shall use commercially reasonable efforts to support Daugherty's position, if any, that such claims were released herein. For the avoidance of doubt, HCMLP will have no obligations to assist Daugherty under this paragraph if HCMLP has been advised by external counsel that such assistance could subject HCMLP to liability to any third party or if such assistance would require HCMLP to expend material amounts of time or money. HCMLP shall not argue in any forum that the non-signatory status of any of the HCMLP Entities to this Settlement shall in any way affect the enforceability of this Settlement vis-à-vis any of the HCMLP Entities. The Parties agree that all of the HCMLP Entities are intended third-party beneficiaries of this Release.

18. HCMLP Covenant: HCMLP and the HCMLP Entities covenant and agree that they will not pursue or seek to enforce any injunctions entered in the Texas Action against

Daugherty.

19. Entire Agreement; Modification: This Settlement contains the entire agreement between the Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between the Parties. This Settlement may not be modified other than by a signed writing executed by the Parties.

20. Bankruptcy Court Approval: Notwithstanding anything to the contrary contained herein, the effectiveness of HCMLP and the Claimant Trust's execution of this Settlement shall be subject to entry of an order of the Bankruptcy Court approving this Settlement. HCMLP shall take all steps necessary to file with the Bankruptcy Court a motion for an order approving this Settlement pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code (the "Motion"). The parties agree to cooperate in the preparation and prosecution of the Motion which shall be filed no later than 5 business day after execution of this Settlement, unless such time is extended by mutual agreement.

21. Counterparts: This Settlement may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument and shall be effective against a Party or Additional Released Party upon approval of the Settlement by the Bankruptcy Court.

22. Governing Law; Jurisdiction: This Settlement will be exclusively governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles, and all claims relating to or arising out of this Settlement, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of Delaware, excluding Delaware's conflicts of law principles. The Bankruptcy Court will retain exclusive jurisdiction over all disputes relating to this Settlement.

23. Headings: Paragraph headings included herein are for convenience and shall have no impact whatsoever on the meaning or interpretation of any part of this Settlement.

[Remainder of page intentionally left blank]

In witness whereof, the parties hereto, intending to be legally bound, have executed this Settlement as of the day and year set forth below:

Dated: 11-24-21

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND CLAIMANT TRUST

By: _____
Name: James P. Seery, Jr.
Title: Claimant Trustee

Dated: 11/22/21

PATRICK HAGAMAN DAUGHERTY

By: _____
Name: Patrick Hagaman Daugherty

EXHIBIT A

HERA RELEASE AGREEMENT

This HERA Release Agreement ("HERA Release Agreement") is entered into as of November 21, 2021 by and among Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), Patrick Hagaman Daugherty ("Daugherty"), Highland Employee Retention Assets, LLC ("HERA") and Highland ERA Management, LLC ("ERA" and together with HCMLP, and HERA, the "Parties," and individually as a "Party").

WHEREAS, reference is hereby made to the Settlement Agreement (the "Settlement") of even date herewith and attached hereto made and entered into by and between the Debtor, the Highland Claimant Trust, and Daugherty.

WHEREAS, the Settlement settles all of Daugherty's claims against the HCMLP Released Parties, including all claims against the HCMLP Released Parties relating to transfers of assets from HERA.

WHEREAS, the Settlement includes, among other things, the transfer by HCMLP to Daugherty of HCMLP's interests in HERA and ERA.

WHEREAS, under the Settlement such transfer is being made without any liability to any of the HCMLP Released Parties of any type and is conditional on the full release of, and covenant not to sue, each of the HCMLP Released Parties, by and from HERA, ERA, Daugherty and the Daugherty Released Parties.

WHEREAS, neither HERA nor ERA filed proofs of claim in the Bankrupty and have no claims against HCMLP.

WHEREAS, out of an abundance of caution to confirm that HERA, ERA, Daugherty, and the Daugherty Released Parties have no claims against the HCMLP Released Parties, this HERA Release Agreement is being entered into contemporaneously with the Settlement and constitutes an

essential part thereof.

WHEREAS, capitalized terms used herein but not otherwise defined herein have the respective meanings set forth in the Settlement.

NOW, THEREFORE, in consideration of the entry into of the Settlement, the transfer of the equity interests in HERA and ERA to Daugherty in accordance with the Settlement, and for other good and valuable consideration, including the provisions set forth herein, the parties hereto further agree as follows:

1. Upon entry of an order of the Bankruptcy Court approving this Settlement and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Additional Release Parties, together with each of HERA and ERA (Daugherty, the Daugherty Additional Release Parties, HERA and ERA shall be collectively referred to herein as the "HERA Releasing Parties"), each hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, any of the HCMLP Released Parties for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, Highland Delaware Case, or the HERA Delaware Case (collectively, "Claims"), in each case that in any way arise from or otherwise in any way relate to HERA or ERA, including, without limitation, any actual or potential claims, whether known or unknown, in any way related to or

arising out of the formation, management, operation or assets of HERA, ERA or any of their respective predecessors or successors, including the transfer of any assets to or from HERA or ERA, it being understood that all remaining assets of HERA have been transferred to HCMLP prior to the date hereof, and in addition to the releases set forth above, each of the HERA Releasing Parties irrevocably waives and releases and covenants not to sue with respect to any Claims against any of the HCMLP Released Parties in any way related to any such transfers or assets, whether *in personam* with respect to the HCMLP Released Parties or *in rem* with respect to any of their assets (collectively, the "HERA Released Claims") or any other Disposition.

2. This Release constitutes a part of, and is supplemental to, the provisions of the Settlement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

In witness whereof, the parties hereto, intending to be legally bound, have executed this HERA Release Agreement as of the date set forth above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

PATRICK HAGAMAN DAUGHERTY

By: _____
Name: Patrick Hagaman Daugherty

HIGHLAND EMPLOYEE RETENTION ASSETS, LLC

By: Highland ERA Management, LLC, its manager

By: Highland Capital Management, LP

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND ERA MANAGEMENT, LLC

By: _____
Name: James P. Seery, Jr.
Title: Authorized Signatory

EXHIBIT B

CAUSE NO. 12-04005

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**IN THE DISTRICT COURT OF**
Plaintiffs,	§	
v.	§	
PATRICK DAUGHERTY,	§	
Defendant and Counter-Plaintiff,	§	**DALLAS COUNTY, TEXAS**
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	
Third-Party Defendants.	§	
	§	**68th JUDICIAL DISTRICT**

AGREED MOTION TO PARTIALLY VACATE THE FINAL JUDGMENT DATED JULY 14, 2014

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Highland Capital Management, LP ("Highland") and Defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties") file this *Agreed Motion to Partially Vacate the Final Judgment dated July 14, 2014* (the "Motion"), and respectfully show the following:

1. On July 14, 2014, this Court entered a *Final Judgment* (the "Judgment") that, among other things, granted Highland's motion for injunctive relief against Daugherty.

2. The Judgment was amended on March 23, and June 23, 2017.

3. On October 16, 2019, filed a petition under chapter 11 in the United States Bankruptcy Court for the District of Delaware ("Highland's Bankruptcy Case"). On October 24,

2019, as a result of the commencement of Highland's Bankruptcy Case, the Supreme Court of Texas issued an order abating a related case that Daugherty had brought in that court, Case No. 19-0758. Highland's Bankruptcy Case was subsequently transferred to the United States Bankruptcy Court for the Northern District of Texas.

4. Daugherty asserted certain claims against Highland in Highland's Bankruptcy Case. The Parties have fully and finally resolved their disputes pursuant to a settlement agreement (the "Settlement Agreement") reached in the Highland Bankruptcy Case pursuant to which, among other things, (a) all of Daugherty's known and unknown claims against each of the Highland Released Parties (as those terms are defined in the Settlement Agreement) are resolved, and (b) this Motion seeking the *vacatur* of certain provisions of the Judgment specifically set forth below is being filed.

5. Highland and Daugherty hereby agree and stipulate that the Court has plenary power to issue an order granting this Motion because the Court retained authority to enforce the permanent injunction rendered in the Judgment, and that changed circumstances have now arisen such that the Court should dissolve the permanent injunction. Highland and Daugherty further agree and stipulate that this Motion shall be treated as an agreement of the Parties pursuant to Texas Rule of Civil Procedure 11, and is fully enforceable. *See Coale v. Scott*, 331 S.W.3d 829, 831-32 (Tex. App.—Amarillo 2011, no pet.) ("Irrespective of whether a trial court lost its plenary jurisdiction over its judgment, the trial court's authority to approve a Rule 11 agreement does not depend on whether it has such jurisdiction.").

6. Highland and Daugherty agree that the following portions of the Judgment shall be vacated pursuant to their settlement in the Highland Bankruptcy:

a. The second full paragraph on Page 2 of the Judgment, which begins "The Court, after considering the jury's findings regarding Daugherty's breaches of contract and breaches of fiduciary duty . . .";

b. The permanent injunction rendered against Daugherty in the third full paragraph on Page 2 of the Judgment, which begins "It is therefore further ORDERED that Daugherty be and hereby is commanded to cease and desist from . . .";

c. The fourth and fifth full paragraphs on Page 2 of the Judgment awarding Highland a monetary judgment against Daugherty for reasonable and necessary attorney's fees, as well as post-judgment interest on that award[1]; and

d. The jury's answers to Questions 1, 2, 5, 6, 9 and 12 in the Verdict, which was attached as Exhibit 1 to the Judgment.

7. Highland and Daugherty further agree that, as a result of the vacation of the permanent injunction in the Judgment, Highland hereby withdraws any pending motions to show cause or motions for contempt against Daugherty that allege Daugherty violated or is violating the permanent injunction. Highland also agrees not to seek to enforce the permanent injunction in any manner in the future.

[1] Daugherty previously satisfied the monetary judgment awarded to Highland, and Highland filed a release of the monetary judgment. Although Highland and Daugherty have agreed to vacate the monetary judgment awarded to Highland, Daugherty waives and relinquishes any right or claim to recover any amount previously paid in satisfaction of the Judgment and Highland shall not be required to reimburse Daugherty for his prior satisfaction of the monetary judgment. To the extent Daugherty is entitled to indemnification for any liabilities, losses, and damages allegedly incurred by him for actions taken in connection with Highland's business, including the liabilities Daugherty allegedly incurred in connection with this action and the Judgment, such indemnification claims have been fully and finally satisfied and resolved under the Settlement Agreement.

8. Concurrent with the filing of this Motion, Daugherty will file a motion to dismiss his as-yet unfiled petition for review pending before the Supreme Court of Texas under Case No. 19-0758.

9. Highland and Daugherty further agree that any portions of the Judgment that are not specifically vacated pursuant to this Motion shall remain in full force and effect.

WHEREFORE, Highland and Daugherty pray that the Court grant this Motion in its entirety, and for all further relief, at law or in equity, the Court deems necessary.

Respectfully submitted,

GRAY REED & McGRAW LLP

By: */s/ Sonya D. Reddy*
ANDREW K. YORK
State Bar No. 24051554
E-mail: dyork@grayreed.com
SONYA D. REDDY
State Bar No. 24079188
E-mail: sreddy@grayreed.com

1601 Elm Street, Suite 4600
Dallas, Texas 75201
(214) 954-4135
(214) 953-1332 (Fax)

ATTORNEYS FOR PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been transmitted by electronic transmission to all counsel of record on February ___, 2021, as follows:

Marc D. Katz
Crystal J. Woods
DLA PIPER LLP (US)
1717 Main St., Suite 3700
Dallas, Texas 75201
214-743-4545 (Fax)
marc.katz@dlapiper.com
crystal.woods@dlapiper.com

Attorneys for Highland Capital Management, L.P.

Michael K. Hurst
A. Shonn Brown
Jonathan Childers
LYNN PINKER COX HURST, LLP
2100 Ross Ave., Suite 2700
Dallas, Texas 75201
(214) 981-3839 (Fax)
mhurst@lynnllp.com
sbrown@ lynnllp.com
jchilders@ lynnllp.com

Attorneys for Third-Party Defendants HERA, Patrick Boyce, and William Britain

/s/ Sonya D. Reddy
SONYA D. REDDY

APPENDIX A (signatures to follow)

1. James P. Seery, Jr.
2. Cameron Baynard
3. Nathan Burns
4. Timothy Cournoyer
5. Naomi Chisum
6. Stetson Clark
7. Sean Fox
8. Matthew Gray
9. Kristin Hendrix
10. David Klos
11. Vishal Patel
12. Thomas Surgent
13. Michael Throckmorton

EXHIBIT 2

From: "John A. Morris" <jmorris@pszjlaw.com>
Date: May 5, 2022 at 8:29:08 PM GMT+1
To: Thomas Surgent <TSurgent@highlandcapital.com>
Cc: jpseeryjr@gmail.com, "Gregory V. Demo" <GDemo@pszjlaw.com>
Subject: FW: Highland: HERA and ERA Books and Records

See below.

I won't re-send the other two zip files, but they have also been produced.

Please let me know if you identify anything else.

Thanks so much, Thomas.

John

John A. Morris
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 212.561.7760
Tel: 212.561.7700 | Fax: 212.561.7777
jmorris@pszjlaw.com
vCard | Bio | LinkedIn

Los Angeles | San Francisco | Wilmington, DE | New York | Houston

---

From: John A. Morris
Sent: Thursday, May 5, 2022 3:26 PM
To: 'Thomas Uebler' <tuebler@mdsulaw.com>
Cc: Gregory V. Demo <GDemo@pszjlaw.com>
Subject: Highland: HERA and ERA Books and Records

Exhibit
H-2
Daugherty 1/29/2026 L.M.

Tom,

Following up on your email of earlier this week, below is a link to certain of the HERA/ERA books and records.

I will send you two (2) further e-mails with zip files that contain additional tax-related documents and other business records.

We believe this production completes HCMLP's obligations under paragraph 8 of the Settlement Agreement, although Highland is making a final review to be certain and will produce any additional records it may identify.

Please let me know if you have any questions or if you have any difficulty accessing any of the books and records.

Regards,

John

John A. Morris
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 212.561.7760
Tel: 212.561.7700 | Fax: 212.561.7777
jmorris@pszjlaw.com
vCard | Bio | LinkedIn

Los Angeles | San Francisco | Wilmington, DE | New York | Houston

---

Link expires May 31, 2022



You have shared 1 file.

1 file

•

38.9 MB total

•

Shared on 05/04/2022 UTC

Your files have been delivered to the following recipient:

lsc@pszjlaw.com

HERA and ERA Books and Records.zip

ZIP 38.9 MB

VIEW ALL FILES

Terms | Privacy

Powered By Hightail

EXHIBIT 3

From: James Seery <jpseeryjr@gmail.com>
To: Patrick Daugherty <pdaugherty@glacierlakecap.com>
CC: David Klos <dklos@highlandcapital.com>, Thomas Surgent <tsurgent@highlandcapital.com>
Bcc: jmorris@pszjlaw.com
Subject: Daugherty Settlement Agreement Follow-Up
Date: Wed, 19 Oct 2022 17:23:06 +0000

Pat,

To follow-up on your recent request for additional information pertaining to the HERA/ERA entities, members of the Highland team have worked to gather further documentation for you. We previously provided corporate documents to you as well as the Quickbooks accounting file to your accountants using their file sharing system.

If acceptable to you, we propose to deliver this new large document delivery (400+ files) via DSI's Sharefile system. Use is straight forward and allows you to download all of the files in an orderly manner. Otherwise, please let me know if there is a different way you would prefer to receive these additional electronic files.

Under our settlement agreement, HCMLP agreed to "transfer its interests in HERA and ERA" to you, and that transfer "include[s] the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system." The transfers are without any liability or material cost to HCMLP. HCMLP also agreed to provide reasonable assistance to you in the preparation of HERA K-1s for 2021.

HCMLP previously made these entity and record transfers and provided books and records information through summarized financial statements and general ledger detail in excel spreadsheets, historical tax returns, governing documents, the raw Quickbooks file containing the historical accounting data, and a spreadsheet detailing the amounts charged by HCMLP to HERA down to the invoice level. HCMLP also prepared and signed the 2021 HERA tax returns with your (and your accountants) input and approval.

While we believe the information already provided satisfied HCMLP's undertakings under the settlement agreement, we nevertheless understand your request for additional HERA and ERA information and have been able to gather the further documentation broken down as follows (some of which may be duplicative to certain documents you've already received, but we are re-including regardless):

HERA

- Governing documents
- Amendments
- Assignments
- Correspondence
- Director resignations
- Expense allocations (resolutions + allocation agreement)
  - Actual copies of invoices (330+ individual invoices across 36 different vendors or law firms tracked down and will be transmitted; <10% couldn't be located and are therefore not included)
- Other resolutions
- Transfer agreements

ERA

- Governing documents

There is less documentation regarding ERA because it was solely a management entity. It did not have any economic activity, did not generate financials, and was a disregarded entity for tax purposes.

Exhibit
H-3
Daugherty 1/29/2026 L.M.

At your request, we also included excel tracking spreadsheets summarizing the assets of HERA from 2009 to May 2012 as well as the individual unit holder's respective interests in HERA. This file was maintained by HCMLP and appears to be an HCMLP business record tracking "The Vessel" (as HERA was sometimes known) and the interests of HCMLP employees in The Vessel.

We have also included certain additional HERA records that we have found relating to HERA assets and distributions to vested HERA participants. These records include: (i) miscellaneous spreadsheets reflecting various items, including actual cash distributions to vested participants; (ii) Smith Barney statements reflecting cash of HERA and ownership of NHF; and (iii) RCP Statements reflecting HERA interests.

Upon transmission of the information described above, HCMLP will have satisfied all of its obligations under the settlement agreement, and our involvement in HERA/ERA (your entities) will be complete. Of course, to the extent one-off questions come up, you're always welcome to contact me. Best of luck with these entities.

And again, as requested above please let us know how you would like us to deliver these files.

Best. Jim

Jim Seery
631-804-2049
jpseeryjr@gmail.com

EXHIBIT 4

Exhibit
H-4
Daugherty 1/29/2026 L.M.

From: John A. Morris
Sent: Friday, May 24, 2024 1:50 PM
To: mbobo@mwblawyer.com
Cc: Jeff Pomerantz <jpomerantz@pszjlaw.com>
Subject: HERA

Bo:

Thank you for you e-mail and supporting documentation. Please copy my partner, Jeff Pomerantz (copied here), on all written communications going forward.

Initially, we note that—intentionally or mistakenly—you misquoted the operative provision of the settlement agreement. Section 8, provides, in pertinent part, that the transfer would "include HERA and ERA books and records (spreadsheet) maintained on HMCLP's system." As Mr. Daugherty knows, the highlighted language you omitted is material and tracks the discussions between Mr. Seery and Mr. Daugherty concerning the limited nature of the books and records.

On the merits, your assertions concerning the emails are wrong. Again, HERA had no employees or URL nor did it have a repository of e-mails that it owned or controlled. Your contention that HERA had a "shared services" agreement with

Highland is also wrong; if your clients want to rely on the supposed veracity of Ellington and Leventon's ambiguous (but false) statements, so be it (you refer to testimony from Dondero, but I did not see that among the documents included in your e-mail). Based on our experience, we suspect Judge Jernigan is already familiar with these issues.

Finally, there is nothing "ironic" or "enlightening" about an e-mail subject line referring to HERA's "books and records" in reaction to an apparent demand letter sent by Mr. Daugherty for HERA documents over eleven years ago. Highland doesn't dispute that HERA had "books and records." Highland provided them—and more—to your client long ago. Nothing in the e-mails you provided states, suggests, or even implies that anyone ever believed that HERA owned or possessed emails and that such emails were part of its "books and records."

Highland has taken all reasonable steps to fulfill its obligations to provide HERA's books and records to Pat. While it would be an unfortunate turn, if your clients honestly believe otherwise, a judicial order bringing finality to these matters would—ironically—be helpful.

Highland reserves all rights and claims at law and in equity.

Regards,

John A. Morris
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 212.561.7760
Tel: 212.561.7700 | Fax: 212.561.7777
jmorris@pszjlaw.com
vCard | Bio | LinkedIn



Los Angeles | New York | Wilmington, DE | Houston | San Francisco

---

From: mbobo@mwblawyer.com <mbobo@mwblawyer.com>
Sent: Friday, May 10, 2024 9:44 AM
To: John A. Morris <jmorris@pszjlaw.com>
Cc: mbobo@mwblawyer.com
Subject: HERA

Dear John,

Please be advised I represent Highland Employee Retention Assets, LLC ("HERA"). I have reviewed the correspondence between you and Drew York at Grey Reed earlier this year regarding obtaining HERA's books and records from Highland Capital Management, L.P. ("Highland") and I find your response severely lacking. The November 22, 2021 Settlement Agreement between HERA and Highland is explicitly clear "HMCLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include HERA and ERA books and records maintained on HMCLP's system." See attached November 21, 2021 Settlement Agreement, page 10 Paragraph 8. This language is neither ambiguous nor confusing and includes all books and records that Highland has related to HERA without caveats or exclusions.

First, your position that emails do not constitute books and records is simply wrong. The Delaware Supreme Court (and almost ever other supreme court in the country) has held that emails constitute books and records of a corporation. *KT4 Partners LLC v. Palantir Techs., Inc.*, 203 A.3d 738 (Del. 2019). The KT4 court went on to hold "[R]ather, it follows from one earlier recognized at common law, before email became a dominant mode of written communication, when stockholders were granted the right to inspect a variety of corporate "papers," often including letters and memoranda among officers and directors. Today, emails and other electronic communications do much of the work of the paper correspondence of yore." *Id*. Even more to the point at hand, this was a stockholders rights case to inspect corporate books and records, with certainty a court would hold that emails related to a corporation's operations are included in the "variety of corporate 'papers'". We are especially confident the Bankruptcy Court will find the emails previously requested, and requested again below, are part of HERA's books and records as required by the Settlement Agreement to be turned over.

Second, your position that "(a) HERA and ERA had no employees; (b) no person used an e-mail address with HERA or ERA URL; (c) neither HERA or ERA ever had a shared services agreement with HCMLP and (d) HCMLP's emails are not now and never were, HERA and ERA's property" is here again not only wrong but disingenuous at best.

Whether or not HERA had employees has no bearing on any analysis as to what constitutes HERA's books and records. Further, the URL address is irrelevant if persons were acting on behalf of HERA, which the evidence shows Highland clearly was. Abrams & Bayliss was outside counsel selected solely to represent HERA and yet took direction from Highland and its affiliates. Highland in house legal team members, including but not limited to, Thomas Surgent, Ted Demaris and Scott Ellington, along with Highland's outside counsel, including but not limited to, Mark Katz, Paul Lackey and Michael Hurst worked directly with Abrams & Bayliss (Steven Hough, Kevin Abrams) to create legal documents, coordinate strategy, and transfer assets on behalf of HERA. Please see the attached pdf labeled HERA legal team emails. It is enlightening, if not ironic, that the subject line of those emails is Books and Records [HERA].

Your assertion that Highland and its affiliates never had a shared services agreement with HERA is shocking in light of the record evidence. I appreciate the fact that you and your firm were not retained as bankruptcy counsel until late September 2019; however, I am hopeful the attached will clarify this issue. Please see attached sworn deposition testimony of Ellington whereby he verifies that he, while also serving as Highland's General Counsel and others including Leventon, while also serving as Highland Chief Legal Counsel, were performing legal services on behalf of HERA. Throughout his deposition Ellington testifies there was a "shared services" agreement with Highland as the manager (and Advisor under the 1940 Securities Act- aka the Registered Investment Advisor Act or RIA). Further, see attached sworn deposition testimony of Leventon where he testifies that Andrews Kurth provided legal services to HERA under a "Joint Defense Agreement". Moreover, see attached sworn trial testimony of Dondero where he testifies he performed work on behalf of HERA pursuant to a shared services agreement. I do not think I need to belabor this point further.

Your assertion that Highland's emails are not now and never were, HERA and ERA's property, while I will not quibble the details, as shown above and pursuant to the Settlement Agreement, they are clearly books and records "maintained on Highlands systems" and thus clearly need to be produced.

In light of the foregoing I am asking that Highland and its affiliates turn over the following within fourteen days:

- All original Word, Excel and PowerPoint documents concerning HERA. This request includes originally created documents and drafts, as well as modified or amended versions of the same.
- All email correspondence concerning HERA.
- All documents related to the transfer of HERA assets.
- All documents related to expenses of HERA assets.
- All email and documents concerning HERA assets, legal communications, tax issues, or unit holder communications.
- All email and documents by Highland in house legal team members, Highland outside counsel and HERA's outside legal counsel related to HERA
- All email and documents by and between HERA board members and with either in house or outside counsel or other service providers at Highland.

As previously requested, all of these requested documents, files and communications should include the corresponding metadata. I am happy to discuss with you what metadata should be included with the load file for the production. Finally, I recommend Highland utilize an outside vendor to collect and produce these requested documents, files and communications due to the sensitive nature of the information, as well as any potential for a conflict of interest among any existing Highland employees that are asked to participate in the collection and production efforts.

HERA has an absolute right to its books and records pursuant to the explicit terms of the Settlement Agreement and you (Highland) are in possession of those books and records. I am hopeful that you will agree to produce those books and records to us. Rest assured your continued refusal to comply with the Settlement Agreement will result in our seeking enforcement of same with the Bankruptcy Court. I look forward to your response.

Best regards,
Bo

Best regards,
Bo

Matthew W. Bobo
Law Office of Matthew Bobo, PLLC
4916 Camp Bowie Blvd.
Fort Worth, Texas 76107
Telephone: (817) 529-0774
Facsimile: (817) 698-9401
E-Mail: mbobo@mwblawyer.com

Note: Privileged/Confidential Information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message, and notify us immediately. If you or your employer does not consent to Internet email messages of this kind, please advise us immediately. Opinions, conclusions and other information expressed in this message are not given or endorsed by this firm unless otherwise indicated by an authorized representative independent of this message. ***This correspondence is covered by the Electronic Communications Privacy Act, 18 U.S.C. § 2510-2521 and is legally privileged.***

EXHIBIT 5

Final Execution Copy

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement") is made and entered into by and between (i) Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), and (ii) Patrick Hagaman Daugherty ("Daugherty" and together with HCMLP, the "Parties," and individually as a "Party"). This Settlement provides for the treatment of certain claims asserted by Daugherty against the Debtor, and for the Parties to take certain other specified actions in settlement thereof.

RECITALS

WHEREAS, on October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, the Debtor's chapter 11 case (the "Bankruptcy") is pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court");

WHEREAS, on February 2 and 3, 2021, the Court conducted a confirmation hearing with respect to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) [Docket No. 1808] (the "Plan");

WHEREAS, on February 8, 2021, the Court rendered an opinion from the bench in which it confirmed the Plan [Docket No. 1924];

WHEREAS, on February 22, 2021, the Court issued an order confirming the Plan [Docket No. 1943];

WHEREAS, on August 11, 2021, the Effective Date (as defined in the Plan) occurred [Docket No. 2700];

WHEREAS, Daugherty is a former employee and limited partner of the Debtor and has

Exhibit
H-5
Daugherty 1/29/2026 L.M.

served in other positions with affiliates and former affiliates of the Debtor;

WHEREAS, at the time of his resignation, Daugherty owned 19.1% of the preferred units of Highland Employee Retention Assets LLC ("HERA"), an employee deferred compensation vehicle managed by the Debtor and Highland ERA Management, LLC ("ERA") and contends that he owned or had the right to own all of the preferred units of HERA;

WHEREAS, prior to his resignation from HCMLP, Daugherty was awarded units of HERA, which vehicle owned interests in Restoration Capital Partners, LP ("RCP"), an HCMLP managed private equity fund, and other investments;

WHEREAS, in April 2012, the Debtor commenced an action against Daugherty in Texas state court (the "Texas Action"), and Daugherty subsequently asserted counterclaims for breach of contract and defamation, and third-party claims against HERA and others;

WHEREAS, after a three-week trial, the jury returned a verdict partially in favor of the Debtor, but Daugherty prevailed on his claims against the Debtor and James Dondero ("Dondero") for defamation with malice and a third-party claim against HERA and was awarded damages of $2.6 million against HERA, plus prejudgment and post-judgment interest at 5% (the "HERA Judgment");[1]

WHEREAS, in July 2017, after being unable to collect on the HERA Judgment, Daugherty commenced an action against the Debtor, Dondero, HERA, and ERA Management in the Delaware Chancery Court (the "Delaware Court"), in a case captioned *Daugherty v. Highland Capital Management, L.P., et al.*, C.A. No. 2017-0488-MTZ, for fraudulent transfer, promissory estoppel, unjust enrichment, indemnification, and fees on fees (the "Highland Delaware Case");

[1] The Debtor prevailed on its claims against Mr. Daugherty for breach of contract and breach of fiduciary duty for non-monetary damages and obtained an award of $2.8 million in attorney's fees. The HERA Judgment was affirmed on appeal on December 1, 2016.

WHEREAS, the Delaware Court in the Highland Delaware Case (i) found that the Dondero-related defendants improperly withheld dozens of documents in discovery on privilege grounds, and (ii) ruled that there was "a reasonable basis to believe that a fraud has been perpetrated" such that the Delaware Court applied the "crime-fraud exception" to the attorney-client privilege assertion, and such rulings have not been overturned;

WHEREAS, Daugherty asserts that such withholding of documents and the failure to search defendants' and their employees personal electronic devices for stored documents and texts as well as other emails and domain names such as sasmgt.com and gmail.com which were in their possession and control and to provide required discovery injured him by undermining his attempts to build an evidentiary record to support his claims against the Debtor and the other defendants in the Highland Delaware Case;

WHEREAS, on October 14, 2019, the Highland Delaware Case proceeded to trial and two days later, on October 16, 2019, before the completion of the trial and before the Delaware Court ruled on Daugherty's and the Debtor's cross-motions for summary judgment regarding indemnification and fees on fees, the Debtor filed for bankruptcy;

WHEREAS, on December 1, 2019, Daugherty filed a separate lawsuit in the Delaware Court, captioned *Daugherty v. Dondero, et al.*, C.A. No. 2019-0956-MTZ, against Dondero, HERA, ERA, Hunton Andrews Kurth LLP ("Andrews Kurth"), Marc Katz ("Katz"), Michael Hurst ("Hurst"), the Debtor's Chief Compliance Officer, the Debtor's then in-house counsel (Isaac Leventon ("Leventon")), and the Debtor's then general counsel (Scott Ellington ("Ellington")), for conspiracy to commit fraud, among other claims (the "HERA Delaware Case" and together with the Highland Delaware Case, the "Delaware Cases");

WHEREAS, on April 1, 2020, Daugherty filed a general, unsecured, non-priority claim

against the Debtor in the amount of at "least $37,483,876.59," and such claim was denoted by the Debtor's claims agent as Proof of Claim No. 67 ("Proof of Claim No. 67");

WHEREAS, on April 6, 2020, Daugherty filed a general, unsecured, non-priority claim against the Debtor in the amount of at "least $37,482,876.62" that superseded Proof of Claim No. 67 and that was denoted by the Debtor's claims agent as Proof of Claim No. 77 ("Proof of Claim No. 77");

WHEREAS, on August 31, 2020, the Debtor commenced an adversary proceeding against Daugherty by filing a complaint (the "Complaint") in which the Debtor: (1) objected to Proof of Claim No. 77 on various grounds (the "Claim Objection"), and (2) asserted a cause of action for the subordination of part of Daugherty's claim pursuant to section 510(b) of the Bankruptcy Code. Adv. Proc. No. 20-03107 (the "Adv. Proc.") [Adv. Docket No. 1] (the "Adversary Proceeding");

WHEREAS, on September 29, 2020, Daugherty filed his answer to the Complaint [Adv. Docket No. 8] (the "Answer");

WHEREAS, on September 24, 2020, Daugherty filed his *Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay* [Docket No. 1099] (the "Stay Motion") pursuant to which he sought to sever the Debtor from the Highland Delaware Case and then consolidate the remaining claims in the Highland Delaware Case into the HERA Delaware Case and proceed with one case against the non-Debtor parties;[2]

WHEREAS, on October 23, 2020, Daugherty filed a motion seeking leave to amend his Proof of Claim No. 77 [Docket No. 1280] (the "POC Amendment Motion"). The amended proof

[2] On October 8, 2020, the Debtor commenced a second adversary proceeding against Daugherty (the "Second Adversary Proceeding"), seeking to enjoin him from prosecuting the Delaware Cases. Adv. Proc. 20-03128 ("2d Adv. Proc.") [2d Adv. Proc. Docket No. 1]. On January 29, 2021, the parties filed a Settlement that resolved the Second Adversary Proceeding, and the Second Adversary Proceeding was subsequently dismissed with prejudice. [2d Adv. Proc. Docket No. 12].

of claim attached to the POC Amendment Motion increased Daugherty's general, unsecured, non-priority claim against the Debtor to the amount of at "least $40,410,819.42" and sought to supersede Proof of Claim No. 67 and Proof of Claim No. 77;

WHEREAS, on October 23, 2020, Daugherty filed his *Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Motion*, seeking for his Claim to be temporarily allowed for voting purposes in this amount of $40,410,819.42 [Docket No. 1281] (the "3018 Motion");

WHEREAS, on November 3, 2020, the Court granted the Stay Motion [Docket No. 1327];

WHEREAS, the Debtor opposed the 3018 Motion, and after conducting an evidentiary hearing for the limited purpose of determining the 3018 Motion, the Court entered an order temporarily allowing Daugherty's Claim only for voting purposes in the amount of $9,134,019 [Docket No. 1474];

WHEREAS, on December 10, 2020, the Court entered an order [Docket No. 1533] granting the POC Amendment Motion, and Daugherty was permitted to file an amendment to his proof of claim. On December 23, 2020, Daugherty filed an amended proof of claim, designated by the Debtor's claim agent as Proof of Claim No. 205 ("Proof of Claim No. 205" or the "Daugherty Claim"). Proof of Claim No. 205 superseded Proof of Claim No. 77 and increased the amount of the Daugherty's Claim to $40,710,819.42;

WHEREAS, on November 30, 2020, Daugherty filed his Motion to Lift the Automatic Stay (the "Lift Stay Motion") [Docket No. 1491] seeking to lift the automatic stay to allow him to finish his trial in the Delaware Court and liquidate his claims. The Debtor opposed the Lift Stay Motion, and after a hearing was held on December 17, 2020, the Court denied the relief requested in the Lift Stay Motion [Docket No. 1612];

WHEREAS, except with respect to the Reserved Claim (as defined below), the Parties have agreed to settle and resolve all claims and disputes between them and their respective current affiliates, managed entities, and employees, including the Daugherty Claim, on the terms set forth in this Settlement:

AGREEMENT

NOW, THEREFORE, after good-faith, arms-length negotiations, and in consideration of the foregoing, it is hereby stipulated and agreed that:

1. Allowed Claims: In full satisfaction of the entirety of the Daugherty Claim against the Debtor and HCMLP Released Parties (defined below), excluding the Reserved Claim, Daugherty shall receive (a) an allowed general unsecured Class 8 claim in the amount of $8,250,000; (b) an allowed subordinated general unsecured Class 9 claim in the amount of $3,750,000; and (c) a one-time lump sum cash payment in the amount of $750,000 to be paid within 5 business days of Bankruptcy Court approval of this Settlement Agreement.

2. Recovery: The Debtor makes no representation or warranty as to the recovery on Class 8 or Class 9 claims under the Plan.

3. Observation Access: As soon as practicable following entry of an order of the Bankruptcy Court approving this Settlement, HCMLP shall use reasonable efforts to petition the Claimant Trust Oversight Board[3] to permit Daugherty to have access as an observer to meetings of the Claimant Trust Oversight Board, subject to policies, procedures, and agreements applicable to other observers of the Claimant Trust Oversight Board, including policies, procedures, and agreements related to confidentiality and common interest. Whether Daugherty will be granted observer access and any continuing observer access is and will remain at the sole discretion of the

[3] The Claimant Trust Oversight Board refers to the Oversight Board as defined in the August 11, 2021 Highland Claimant Trust Agreement establishing the Claimant Trust, as defined therein.

Claimant Trust Oversight Board.

4. RCP Track Record: HCMLP shall use reasonable efforts to provide Daugherty with data constituting the investment performance track record of RCP during Daugherty's tenure at HCMLP. Daugherty shall not be entitled to any compensation with respect to the performance of RCP. HCMLP makes no representations or warranties regarding such data and takes no responsibility with respect to the use of such data for any purposes.

5. Daugherty Releases: Except as specifically provided in this paragraph 5, and to the maximum extent permitted by applicable law, the Debtor, on behalf of itself and each of the HCMLP Entities and HCMLP Parties (as those terms are defined in paragraph 6 below), hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue Daugherty, his successors, affiliates, and assigns, (and in each such category to include their respective advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, and designees) (collectively, the "Daugherty Additional Release Parties" and together with Daugherty, the "Daugherty Released Parties"), in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, or the Delaware Cases, all existing as of the date hereof (collectively, the "HCMLP Released Claims"); provided, however, that such release shall not

apply with respect to any and all defenses that HCMLP or the HCMLP Entities may have to the Reserved Claim or the Reserve Motion (as those terms are defined herein) or Daugherty's obligations under this Settlement. For the avoidance of doubt, the HCMLP Released Claims include all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

6. HCMLP Releases: Except as specifically provided in this paragraph 6, and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Released Parties, hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (a)(i) HCMLP; (ii) Strand Advisors Inc.; (iii) the Claimant Trust; (iv) the Claimant Trust Oversight Board; (v) the Highland Litigation Sub-Trust; (vi) the Highland Indemnity Trust; (vii) any entity of which greater than fifty percent of the voting ownership is held directly or indirectly by HCMLP as of the date hereof and any entity otherwise directly or indirectly controlled by HCMLP as of the date hereof,; and (viii) any entity managed by either HCMLP or a direct or indirect subsidiary of HCMLP, including Highland Restoration Capital Partners, L.P., Highland Restoration Capital Partners Offshore, L.P., Highland Restoration Capital Master, L.P. (and all of their respective general partners, feeder funds, managers, and affiliates) (the foregoing (a)(i) through (a)(viii) the "HCMLP Entities"), and (b) with respect to each such HCMLP Entity, such HCMLP Entity's respective current (meaning employed in their respective roles as of the date hereof) advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders (but not the shareholders of Strand Advisors Inc.), agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns, except as expressly set forth below (the "HCMLP Parties," and together with the

HCMLP Entities, the "HCMLP Released Parties"),[4] in each case acting in such capacity, for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, or the Highland Delaware Case (collectively, the "Daugherty Released Claims"); provided, however, that such release shall not apply with respect to the Reserved Claim or the Reserve Motion (as those terms are defined in paragraph 9 below) or HCMLP's obligations under this Settlement. This release expressly applies to all current employees of HCMLP as the Reorganized Debtor (as defined in the Plan), in their capacities as such. For the avoidance of doubt, the Daugherty Released Claims includes all claims or causes of action and facts, known or unknown, that exist as of the date hereof but do not include or apply to claims or causes of action based on facts occurring after the date hereof.

7. Reservation of Daugherty Rights: Notwithstanding anything contained herein to the contrary, the term HCMLP Released Parties shall not include (a) NexPoint Advisors, L.P. (or any of its subsidiaries and employees, advisors, or agents), (b) the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and any of their respective employees, advisors, or agents), (c) NexBank, SSB (or any of its subsidiaries, employees, advisors, or agents), (d) James Dondero or any trust in which Dondero or any of his family members are a trustee or beneficiary (or any trustee acting for such trust), including but not limited to Hunter

[4] The Daugherty Additional Released Parties and the HCMLP Released Parties are collectively referred to as the "Additional Released Parties."

Mountain Investment Trust, The Get Good Trust, Dugaboy Investment Trust, SLHC Investment Trust, (e) HERA (subject to paragraph 8 below), (f) ERA (subject to paragraph 8 below), (g) Grant Scott, (h) Mark Okada and any trust in which Mark Okada or any of his family members are a beneficiary (or any trustee acting for such trust in their respective capacities), (i) Ellington, (j) Leventon, (k) Katz, (l) Hurst, (m) Andrews Kurth, or (m) any other former employee (as of the date hereof) of the HCMLP Released Parties.

8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the HCMLP Released Parties from any and all claims, including any claims actions or remedies related

to any Disposition, either of them may have against any HCMLP Released Party now or in the future (the "HERA and ERA Release"). Daugherty on behalf of himself and each of the Daugherty Released Parties acknowledges, accepts, and agrees not to challenge the HERA and ERA Release or support any challenge thereto. A copy of the HERA and ERA Release is annexed hereto as **Exhibit A**. Daugherty acknowledges and agrees that even though HERA and ERA are not HCMLP Released Parties under this Agreement, Daugherty and all Daugherty Released Parties shall (a) not seek to hold any HCMLP Released Party liable for any action or inaction taken by or on behalf of HERA or ERA, including through any derivative, veil-piercing or similar cause of action or remedy; and (b) not seek to recover damages or obtain any form of relief against any HCMLP Released Party on account of any action or inaction taken by or on behalf of HERA or ERA, including through any veil piercing or similar cause of action or remedy. If, for any reason, HERA or ERA, or any person or entity acting on their behalf, recovers anything from any HCMLP Released Party, Daugherty shall promptly turnover to HCMLP or its successors and assigns any amounts actually recovered by Daugherty or any Daugherty Released Party, from HERA or ERA arising from, related to, or derived from any claim that HERA or ERA or any person or entity acting on their behalf has or may have against any HCMLP Released Party. HCMLP will provide reasonable assistance to Daugherty to assist with the preparation of any required HERA K-1s for 2021, but any requirement to provide such K-1s will be the obligation, if any, of HERA.

9. IRS Compensation Claim: In section 4(ii) of the Addendum to Proof of Claim No. 205, Daugherty contends that he has a contingent, unliquidated claim against the Debtor arising out of a 2008/2009 compensation letter (the "Reserved Claim"), which claim is also related to an audit/dispute between the Debtor and the Internal Revenue Service (the "IRS") (the dispute between the Debtor and IRS being referred to herein as the "IRS Audit Dispute"). The Debtor

disputes the validity and amount of the Reserved Claim. Daugherty shall retain the Reserved Claim solely against the Debtor and not against any other HCMLP Released Party, and the Debtor reserves the right to assert any and all defenses thereto. Any litigation by and between the Debtor and Daugherty concerning the validity and amount of the Reserved Claim shall be stayed until the IRS makes a final determination with respect to the IRS Audit Dispute; provided, however, that Daugherty may file a motion with the Bankruptcy Court to have the Reserved Claim estimated for purposes of establishing a reserve as a "Disputed Claim" under the Debtor's Plan (the "Reserve Motion"), and the Debtor (and any successor) reserves the right to assert any and all defenses thereto. Notwithstanding the foregoing, Daugherty may address any personal claim or personal liability to the IRS as a result of the IRS Audit Dispute, including settlement of any such claims; provided, however, Daugherty agrees to forego settling or addressing any claims with the IRS without the written consent of the Debtor until March 31, 2022.

10. Current HCMLP Employees: The HCMLP Parties set forth on **Appendix A** hereto are currently employed by the Debtor are HCMLP Released Parties. By executing a copy of this Settlement and delivering it to Daugherty, each of the persons on Appendix A agrees not to sue, attempt to sue, or threaten or work with or assist any entity or person to sue, attempt to sue, or threaten any Daugherty Released Party on or in connection with any claim or cause of action arising prior to the date of this Settlement.

11. Dismissal and Motions in Other Actions. Within ten business days after approval of this Settlement by the Bankruptcy Court, the Parties shall take all steps necessary (a) to dismiss with prejudice (i) the Highland Delaware Case, as against the Debtor and any HCMLP Released Party, and (ii) the HERA Delaware Case, as against every HCMLP Released Party, (b) to file an agreed motion and proposed order to partially vacate the final judgment entered against Daugherty

in the Texas Action, (c) withdraw HCMLP's objection to the Daugherty motion to recuse in the Texas Action, and (d) to dismiss the Adversary Proceeding with prejudice. The parties shall file the foregoing motions and withdrawals substantially in the form of the documents annexed hereto as **Exhibit B**.

12. Additional Third Party Claims Discovery: The Debtor (a) shall accept service of any subpoenas via email served by Daugherty in connection with the Delaware Cases on behalf of itself, the HCMLP Entities, the HCMLP Parties (but only in their capacity as employees of HCMLP); and (b) acknowledge and consent to the jurisdiction of the Delaware Chancery Court for purposes of enforcing any such subpoenas, subject in all respects to the rights that the HCMLP Entities and HCMLP Parties to defend the requested production, if any.

13. Settlement of Third Party Claims: Daugherty shall not settle any claims or causes of action against any current or former director, officer, employee, agent or representative of HCMLP or Strand Advisors Inc. (collectively, the "Potentially Indemnified Parties") to the extent such claims have been brought or could have been brought against any Potentially Indemnified Parties, if any such settlement designates, defines or describes the settled claims as arising out of or relating to simple negligence or as having otherwise been within the scope of employment of the Potentially Indemnified Party.

14. Claims Register: As soon as practicable after the Settlement Effective Date, HCMLP shall instruct the claims agent in the Debtor's chapter 11 case to adjust the claims register in accordance with this Settlement.

15. Daugherty Representations: Daugherty represents and warrants to each of the HCMLP Released Parties that (a) he has full authority to release the Daugherty Released Claims and has not sold, transferred, or assigned any Daugherty Released Claim to any other person or

entity and that (b) no person or entity other than Daugherty has been, is, or will be authorized to bring, pursue, or enforce any Daugherty Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) Daugherty.

16. HCMLP Representations: Each of HCMLP and each HCMLP Released Party who has signed this Settlement represents and warrants to Daugherty that (a) he, she or it has not sold, transferred, pledged, assigned or hypothecated any HCMLP Released Claim to any other person or entity and (b) he, she, or it has full authority to release any HCMLP Released Claims that such HCMLP Released Party personally has against Daugherty.

17. Additional HCMLP Representations: HCMLP represents and warrants that it is releasing the HCMLP Released Claims on behalf of the HCMLP Entities to the maximum extent permitted by any contractual or other legal rights HCMLP possesses. To the extent any of the HCMLP Entities dispute HCMLP's right to release the HCMLP Released Claims on behalf of any of the HCMLP Entities, HCMLP shall use commercially reasonable efforts to support Daugherty's position, if any, that such claims were released herein. For the avoidance of doubt, HCMLP will have no obligations to assist Daugherty under this paragraph if HCMLP has been advised by external counsel that such assistance could subject HCMLP to liability to any third party or if such assistance would require HCMLP to expend material amounts of time or money. HCMLP shall not argue in any forum that the non-signatory status of any of the HCMLP Entities to this Settlement shall in any way affect the enforceability of this Settlement vis-à-vis any of the HCMLP Entities. The Parties agree that all of the HCMLP Entities are intended third-party beneficiaries of this Release.

18. HCMLP Covenant: HCMLP and the HCMLP Entities covenant and agree that they will not pursue or seek to enforce any injunctions entered in the Texas Action against

Daugherty.

19. Entire Agreement; Modification: This Settlement contains the entire agreement between the Parties as to its subject matter and supersedes and replaces any and all prior agreements and undertakings between the Parties. This Settlement may not be modified other than by a signed writing executed by the Parties.

20. Bankruptcy Court Approval: Notwithstanding anything to the contrary contained herein, the effectiveness of HCMLP and the Claimant Trust's execution of this Settlement shall be subject to entry of an order of the Bankruptcy Court approving this Settlement. HCMLP shall take all steps necessary to file with the Bankruptcy Court a motion for an order approving this Settlement pursuant to Federal Rule of Bankruptcy Procedure 9019 and section 363 of the Bankruptcy Code (the "Motion"). The parties agree to cooperate in the preparation and prosecution of the Motion which shall be filed no later than 5 business day after execution of this Settlement, unless such time is extended by mutual agreement.

21. Counterparts: This Settlement may be executed in counterparts (including facsimile and electronic transmission counterparts), each of which will be deemed an original but all of which together constitute one and the same instrument and shall be effective against a Party or Additional Released Party upon approval of the Settlement by the Bankruptcy Court.

22. Governing Law; Jurisdiction: This Settlement will be exclusively governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles, and all claims relating to or arising out of this Settlement, or the breach thereof, whether sounding in contract, tort, or otherwise, will likewise be governed by the laws of the State of Delaware, excluding Delaware's conflicts of law principles. The Bankruptcy Court will retain exclusive jurisdiction over all disputes relating to this Settlement.

23. Headings: Paragraph headings included herein are for convenience and shall have no impact whatsoever on the meaning or interpretation of any part of this Settlement.

[Remainder of page intentionally left blank]

In witness whereof, the parties hereto, intending to be legally bound, have executed this Settlement as of the day and year set forth below:

Dated: 11-21-21

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND CLAIMANT TRUST

By: _____
Name: James P. Seery, Jr.
Title: Claimant Trustee

PATRICK HAGAMAN DAUGHERTY

Dated: 11/22/21

By: _____
Name: Patrick Hagaman Daugherty

EXHIBIT A

HERA RELEASE AGREEMENT

This HERA Release Agreement ("HERA Release Agreement") is entered into as of November 21, 2021 by and among Highland Capital Management, L.P., as reorganized debtor ("HCMLP" or the "Debtor"), Patrick Hagaman Daugherty ("Daugherty"), Highland Employee Retention Assets, LLC ("HERA") and Highland ERA Management, LLC ("ERA" and together with HCMLP, and HERA, the "Parties," and individually as a "Party").

WHEREAS, reference is hereby made to the Settlement Agreement (the "Settlement") of even date herewith and attached hereto made and entered into by and between the Debtor, the Highland Claimant Trust, and Daugherty.

WHEREAS, the Settlement settles all of Daugherty's claims against the HCMLP Released Parties, including all claims against the HCMLP Released Parties relating to transfers of assets from HERA.

WHEREAS, the Settlement includes, among other things, the transfer by HCMLP to Daugherty of HCMLP's interests in HERA and ERA.

WHEREAS, under the Settlement such transfer is being made without any liability to any of the HCMLP Released Parties of any type and is conditional on the full release of, and covenant not to sue, each of the HCMLP Released Parties, by and from HERA, ERA, Daugherty and the Daugherty Released Parties.

WHEREAS, neither HERA nor ERA filed proofs of claim in the Bankrupty and have no claims against HCMLP.

WHEREAS, out of an abundance of caution to confirm that HERA, ERA, Daugherty, and the Daugherty Released Parties have no claims against the HCMLP Released Parties, this HERA Release Agreement is being entered into contemporaneously with the Settlement and constitutes an

essential part thereof.

WHEREAS, capitalized terms used herein but not otherwise defined herein have the respective meanings set forth in the Settlement.

NOW, THEREFORE, in consideration of the entry into of the Settlement, the transfer of the equity interests in HERA and ERA to Daugherty in accordance with the Settlement, and for other good and valuable consideration, including the provisions set forth herein, the parties hereto further agree as follows:

1. Upon entry of an order of the Bankruptcy Court approving this Settlement and to the maximum extent permitted by law, Daugherty, on behalf of himself and each of the Daugherty Additional Release Parties, together with each of HERA and ERA (Daugherty, the Daugherty Additional Release Parties, HERA and ERA shall be collectively referred to herein as the "HERA Releasing Parties"), each hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, any of the HCMLP Released Parties for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including without limitation those which were or could have been asserted in the Bankruptcy, including the Adversary Proceeding, the Texas Action, the Daugherty Claim, Highland Delaware Case, or the HERA Delaware Case (collectively, "Claims"), in each case that in any way arise from or otherwise in any way relate to HERA or ERA, including, without limitation, any actual or potential claims, whether known or unknown, in any way related to or

arising out of the formation, management, operation or assets of HERA, ERA or any of their respective predecessors or successors, including the transfer of any assets to or from HERA or ERA, it being understood that all remaining assets of HERA have been transferred to HCMLP prior to the date hereof, and in addition to the releases set forth above, each of the HERA Releasing Parties irrevocably waives and releases and covenants not to sue with respect to any Claims against any of the HCMLP Released Parties in any way related to any such transfers or assets, whether *in personam* with respect to the HCMLP Released Parties or *in rem* with respect to any of their assets (collectively, the "HERA Released Claims") or any other Disposition.

2. This Release constitutes a part of, and is supplemental to, the provisions of the Settlement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

In witness whereof, the parties hereto, intending to be legally bound, have executed this HERA Release Agreement as of the date set forth above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

PATRICK HAGAMAN DAUGHERTY

By: _____
Name: Patrick Hagaman Daugherty

HIGHLAND EMPLOYEE RETENTION ASSETS, LLC

By: Highland ERA Management, LLC, its manager

By: Highland Capital Management, LP

By: _____
Name: James P. Seery, Jr.
Title: Chief Executive Officer

HIGHLAND ERA MANAGEMENT, LLC

By: _____
Name: James P. Seery, Jr.
Title: Authorized Signatory

EXHIBIT B

CAUSE NO. 12-04005		
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**IN THE DISTRICT COURT OF**
Plaintiffs,	§	
v.	§	
PATRICK DAUGHERTY,	§	
Defendant and Counter-Plaintiff,	§	**DALLAS COUNTY, TEXAS**
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	
Third-Party Defendants.	§	
	§	**68th JUDICIAL DISTRICT**

AGREED MOTION TO PARTIALLY VACATE THE FINAL JUDGMENT DATED JULY 14, 2014

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Highland Capital Management, LP ("Highland") and Defendant Patrick Daugherty ("Daugherty" and together with Highland, the "Parties") file this *Agreed Motion to Partially Vacate the Final Judgment dated July 14, 2014* (the "Motion"), and respectfully show the following:

1. On July 14, 2014, this Court entered a *Final Judgment* (the "Judgment") that, among other things, granted Highland's motion for injunctive relief against Daugherty.

2. The Judgment was amended on March 23, and June 23, 2017.

3. On October 16, 2019, filed a petition under chapter 11 in the United States Bankruptcy Court for the District of Delaware ("Highland's Bankruptcy Case"). On October 24,

2019, as a result of the commencement of Highland's Bankruptcy Case, the Supreme Court of Texas issued an order abating a related case that Daugherty had brought in that court, Case No. 19-0758. Highland's Bankruptcy Case was subsequently transferred to the United States Bankruptcy Court for the Northern District of Texas.

4. Daugherty asserted certain claims against Highland in Highland's Bankruptcy Case. The Parties have fully and finally resolved their disputes pursuant to a settlement agreement (the "Settlement Agreement") reached in the Highland Bankruptcy Case pursuant to which, among other things, (a) all of Daugherty's known and unknown claims against each of the Highland Released Parties (as those terms are defined in the Settlement Agreement) are resolved, and (b) this Motion seeking the *vacatur* of certain provisions of the Judgment specifically set forth below is being filed.

5. Highland and Daugherty hereby agree and stipulate that the Court has plenary power to issue an order granting this Motion because the Court retained authority to enforce the permanent injunction rendered in the Judgment, and that changed circumstances have now arisen such that the Court should dissolve the permanent injunction. Highland and Daugherty further agree and stipulate that this Motion shall be treated as an agreement of the Parties pursuant to Texas Rule of Civil Procedure 11, and is fully enforceable. *See Coale v. Scott*, 331 S.W.3d 829, 831-32 (Tex. App.—Amarillo 2011, no pet.) ("Irrespective of whether a trial court lost its plenary jurisdiction over its judgment, the trial court's authority to approve a Rule 11 agreement does not depend on whether it has such jurisdiction.").

6. Highland and Daugherty agree that the following portions of the Judgment shall be vacated pursuant to their settlement in the Highland Bankruptcy:

a. The second full paragraph on Page 2 of the Judgment, which begins "The Court, after considering the jury's findings regarding Daugherty's breaches of contract and breaches of fiduciary duty . . .";

b. The permanent injunction rendered against Daugherty in the third full paragraph on Page 2 of the Judgment, which begins "It is therefore further ORDERED that Daugherty be and hereby is commanded to cease and desist from . . .";

c. The fourth and fifth full paragraphs on Page 2 of the Judgment awarding Highland a monetary judgment against Daugherty for reasonable and necessary attorney's fees, as well as post-judgment interest on that award[1]; and

d. The jury's answers to Questions 1, 2, 5, 6, 9 and 12 in the Verdict, which was attached as Exhibit 1 to the Judgment.

7. Highland and Daugherty further agree that, as a result of the vacation of the permanent injunction in the Judgment, Highland hereby withdraws any pending motions to show cause or motions for contempt against Daugherty that allege Daugherty violated or is violating the permanent injunction. Highland also agrees not to seek to enforce the permanent injunction in any manner in the future.

[1] Daugherty previously satisfied the monetary judgment awarded to Highland, and Highland filed a release of the monetary judgment. Although Highland and Daugherty have agreed to vacate the monetary judgment awarded to Highland, Daugherty waives and relinquishes any right or claim to recover any amount previously paid in satisfaction of the Judgment and Highland shall not be required to reimburse Daugherty for his prior satisfaction of the monetary judgment. To the extent Daugherty is entitled to indemnification for any liabilities, losses, and damages allegedly incurred by him for actions taken in connection with Highland's business, including the liabilities Daugherty allegedly incurred in connection with this action and the Judgment, such indemnification claims have been fully and finally satisfied and resolved under the Settlement Agreement.

8. Concurrent with the filing of this Motion, Daugherty will file a motion to dismiss his as-yet unfiled petition for review pending before the Supreme Court of Texas under Case No. 19-0758.

9. Highland and Daugherty further agree that any portions of the Judgment that are not specifically vacated pursuant to this Motion shall remain in full force and effect.

WHEREFORE, Highland and Daugherty pray that the Court grant this Motion in its entirety, and for all further relief, at law or in equity, the Court deems necessary.

Respectfully submitted,

GRAY REED & McGRAW LLP

By: */s/ Sonya D. Reddy*
ANDREW K. YORK
State Bar No. 24051554
E-mail: dyork@grayreed.com
SONYA D. REDDY
State Bar No. 24079188
E-mail: sreddy@grayreed.com

1601 Elm Street, Suite 4600
Dallas, Texas 75201
(214) 954-4135
(214) 953-1332 (Fax)

ATTORNEYS FOR PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been transmitted by electronic transmission to all counsel of record on February ___, 2021, as follows:

Marc D. Katz
Crystal J. Woods
DLA PIPER LLP (US)
1717 Main St., Suite 3700
Dallas, Texas 75201
214-743-4545 (Fax)
marc.katz@dlapiper.com
crystal.woods@dlapiper.com

Attorneys for Highland Capital Management, L.P.

Michael K. Hurst
A. Shonn Brown
Jonathan Childers
LYNN PINKER COX HURST, LLP
2100 Ross Ave., Suite 2700
Dallas, Texas 75201
(214) 981-3839 (Fax)
mhurst@lynnllp.com
sbrown@ lynnllp.com
jchilders@ lynnllp.com

Attorneys for Third-Party Defendants HERA, Patrick Boyce, and William Britain

/s/ Sonya D. Reddy
SONYA D. REDDY

APPENDIX A (signatures to follow)

1. James P. Seery, Jr.
2. Cameron Baynard
3. Nathan Burns
4. Timothy Cournoyer
5. Naomi Chisum
6. Stetson Clark
7. Sean Fox
8. Matthew Gray
9. Kristin Hendrix
10. David Klos
11. Vishal Patel
12. Thomas Surgent
13. Michael Throckmorton

EXHIBIT 6

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In Re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. Proc. No. 25-03055-sgj
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

4922-3068-9920.3

Exhibit
H-6
Daugherty 1/29/2026 L.M.

PATRICK DAUGHERTY'S AMENDED ANSWERS TO HIGHLAND CAPITAL MANAGEMENT, L.P.'S REQUESTS FOR ADMISSION

TO: Plaintiff/Counter-Defendant, Highland Capital Management, L.P., by and through its attorneys of record, Jeffrey N. Pomerantz, John A. Morris, Gregory V. Demo, and Hayley R. Winograd, PACHULSKI STANG ZIEHL & JONES LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067; and Melissa S. Hayward and Zachery Z. Annable, HAYWARD PLLC, 10501 N. Central Expressway, Suite 106, Dallas, Texas 75231.

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, and Rule 7034 of the Federal Bankruptcy Rules of Procedure, and based on the parties' meet and confer process concerning discovery disputes, Patrick Daugherty ("Daugherty") hereby makes and serves his Amended Answers to certain of Highland Capital Management, L.P.'s Requests for Admission ("Amended Answers"). Specifically, Daugherty hereby provides an Amended Answer to Request for Admission No. 5.

ANSWERS TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit that You have not communicated with the IRS for the purpose of resolving the dispute Concerning the 2008 Refund or Your 2008 K-1.

ANSWER: Deny.

REQUEST FOR ADMISSION NO. 2:

Admit that before October 10, 2022, Highland informed You, in substance, of its contention that it had fulfilled its obligations under the Settlement Agreement, including its obligation to provide Books and Records.

ANSWER: Daugherty lacks sufficient information to admit or deny this request, therefore, deny. Daugherty has made a reasonable inquiry and has been unable to locate any documents or communications that are dated before October 10, 2022, in which Highland informed Daugherty, in substance, of its contention that it had fulfilled its obligations under the Settlement Agreement, including its obligation to provide Books and Records. Further, Daugherty does not recall any verbal communication from anyone on behalf of Highland before October 10, 2022, that made such a contention. If Plaintiff has a communication in its possession dated before October 10,

2022, wherein Plaintiff contends it fulfilled its obligations, Daugherty can review and will amend his answer accordingly.

REQUEST FOR ADMISSION NO. 3:

Admit that before October 10, 2022, Highland informed You, in substance, that it would not produce any additional Books and Records.

ANSWER: Deny.

REQUEST FOR ADMISSION NO. 4:

Admit that in 2025, You authorized your counsel to offer Highland a general release in exchange for $20 million.

ANSWER: Daugherty objects to this request as seeking information not relevant to the claims or defenses in this adversary proceeding. Fed. R. Civ. P. 26(b)(1). Plaintiff's lawsuit is focused solely on Daugherty's claim in the underlying bankruptcy case, which is premised entirely on the 2008 Refund and related tax issues. Daugherty's counterclaim is based on Plaintiff's breach of the Settlement Agreement for failing to produce HERA and ERA's books and records. Daugherty further objects because the request as written seeks an answer implicating attorney-client privilege.

REQUEST FOR ADMISSION NO. 5:

Admit that in 2025, Your counsel offered Highland a general release in exchange for $20 million.

ANSWER: Daugherty objects that this request seeks information that is not relevant to the claims or defenses asserted in this adversary proceeding. Plaintiff's lawsuit is focused solely on Daugherty's claim in the underlying bankruptcy case, which is premised entirely on the 2008 Refund and related tax issues. Daugherty's counterclaim is based on Plaintiff's breach of the Settlement Agreement for failing to produce HERA and ERA's books and records. Daugherty further objects that this request seeks information concerning to settlement communications or offers made pursuant to Federal Rule of Evidence 408, Daugherty objects to the production or use of same in this proceeding.

AMENDED ANSWER: Daugherty objects that this request seeks information that is not relevant to the claims or defenses asserted in this adversary proceeding. Plaintiff's lawsuit is focused solely on Daugherty's claim in the underlying bankruptcy case, which is premised entirely on the 2008 Refund and related tax issues. Daugherty's counterclaim is based on Plaintiff's breach of the Settlement Agreement for failing to produce HERA and ERA's books and records. Daugherty further objects that this request seeks information concerning to

settlement communications or offers made pursuant to Federal Rule of Evidence 408, Daugherty objects to the production or use of same in this proceeding. Daugherty admits that in response to an invitation from Highland's counsel for a demand from Daugherty, Daugherty opened negotiations by demanding $20 million in exchange for providing Highland and its representatives with a general release of all claims that Daugherty had or might have.

REQUEST FOR ADMISSION NO. 6:

Admit that since January 1, 2021, you recorded at least one conversation with a Highland employee, officer, agent, or representative without his or her knowledge or consent.

ANSWER: Daughety objects that this request seeks information that is not relevant to this adversary proceeding. Fed. R. Civ. P. 26(b)(1). Plaintiff's lawsuit is focused solely on Daugherty's claim in the underlying bankruptcy case, which is premised entirely on the 2008 Refund and related tax issues. Daugherty's counterclaim is based on Plaintiff's breach of the Settlement Agreement for failing to produce HERA and ERA's books and records. This request has no bearing on either of those claims, and Plaintiff cannot use discovery for the sole purpose of developing new claims. *See* Fed. R. Civ. P. 26(b)(1), Advisory Committee Note (2000) ("The court…has the authority to confine discovery to the claims and defenses asserted in the pleadings, and…the parties…have no entitlement to discovery to develop new claims or defenses that are not already identified in the pleadings.").

REQUEST FOR ADMISSION NO. 7:

Admit that You resigned from all positions at Highland prior to December 31, 2011.

ANSWER: Admit.

REQUEST FOR ADMISSION NO. 8:

Admit that You never executed a separation agreement and release substantially in the form of Exhibit A to the Amended Employment Agreement.

ANSWER: Daugherty objects to this request as misleading and assuming facts not in evidence, namely that Highland presented Daugherty with a separation and release agreement in the form of Exhibit A to execute. Daugherty admits he did not execute a separation agreement and release substantially in the form of Exhibit A to the Amended Employment Agreement since Highland never presented it to him.

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answers was served, via email, on counsel for Highland Capital Management, L.P., on this 12th day of December, 2025.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT 7

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In Re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
	§	
Reorganized Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. Proc. No. 25-03055-sgj
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant.	§	
	§	

PATRICK DAUGHERTY'S AMENDED ANSWERS TO

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Exhibit H-7
Daugherty 1/29/2026 L.M.

001499

HIGHLAND CAPITAL MANAGEMENT, L.P.'S INTERROGATORIES

TO: Plaintiff/Counter-Defendant, Highland Capital Management, L.P., by and through its attorneys of record, Jeffrey N. Pomerantz, John A. Morris, Gregory V. Demo, and Hayley R. Winograd, PACHULSKI STANG ZIEHL & JONES LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067; and Melissa S. Hayward and Zachery Z. Annable, HAYWARD PLLC, 10501 N. Central Expressway, Suite 106, Dallas, Texas 75231.

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, and Rule 7034 of the Federal Bankruptcy Rules of Procedure, and following the parties' meet and confer process, Patrick Daugherty ("Daugherty") hereby makes and serves his Amended Answers to certain of Highland Capital Management, L.P.'s Interrogatories ("Amended Answers"). Specifically, Daugherty is providing Amended Answers to Interrogatory Nos. 1-3 and 5.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1:

If You deny RFA No. 1, identify the date(s) you communicated with the IRS concerning the 2008 Refund or the 2008 K-1 or the 2008 Audit.

ANSWER: Daugherty does not recall the specific dates that he affirmatively communicated directly with the IRS. Daugherty is investigating the dates his accounting firm affirmatively communicated with the IRS and will supplement his answer to this Interrogatory with that information if he is able to obtain it.

AMENDED ANSWER: After further investigation, Daugherty is not able to recall or determine the specific dates upon which he and his accounting firm communicated with the IRS. Daugherty's accounting firm filed the Form 1045 Refund request on or about April 2009. Daugherty recalls two instances on or about November 2024 and on or about April 2018 where the IRS requested and he and/or his accounting firm provided information with regard to matters concerning the 2008 Tax Refund audit.

INTERROGATORY NO. 2:

Identify (a) the amount of the 2008 Refund You received pursuant to the Compensation Statement and (b) the date you received it.

ANSWER: Daugherty answers that he received the refund sometime in 2009 but does not recall the exact date. Plaintiff should be in possession of an email from Patrick Boyce to Daugherty in 2009 in which Mr. Boyce, on behalf of Plaintiff, congratulated Daugherty on his "bonus." That

email will provide the closest approximate date to when Daugherty received the refund. Daugherty no longer has access to this email. As to the amount, Daugherty will supplement upon review of his relevant tax return.

AMENDED ANSWER: [redacted]

INTERROGATORY NO. 3:

If You elected to use the 2008 Refund to satisfy any other then-current or then-future obligations to the IRS, identify (a) the amount of the 2008 Refund that was used to offset such obligations and (b) the date(s) that such offsets occurred.

ANSWER: Daugherty objects that the term "obligations" is vague. Daugherty did not have any pre-existing payment obligations to the IRS from previous years' tax returns at the time he filed his 2008 tax year return. Daugherty also did not use the 2008 Refund to satisfy any payment obligations to the IRS that arose in any subsequent tax year.

AMENDED ANSWER: Daugherty objects that the term "obligations" is vague. Daugherty's 2008 Refund amount was net of [redacted] that Daugherty already paid the IRS in in 2008 for the 2007 tax year.

INTERROGATORY NO. 4:

Identify any Books and Records that You contend Highland has failed to provide in accordance with the Settlement Agreement.

ANSWER: Daugherty objects that this Interrogatory is overbroad, not proportionate to the needs of this adversary proceeding, and requires Daugherty to marshal his evidence. This Interrogatory literally requires Daugherty to identify thousands and thousands of documents and communications that constitute HERA and ERA books and records that have not been provided by Plaintiff to Daugherty. Daugherty answers that Plaintiff has significant information of HERA and ERA that Plaintiff was obligated to produce pursuant to the Settlement Agreement. Plaintiff has extensive email communications regarding HERA and ERA that it previously failed to provide, as well as invoices from law firms (such as Hunton Andrews Kurth LLP, Gruber Hurst Elrod Johansen Hail Shank LLP, Lynn Pinker Hurst Schwegmann LLP, DLA Piper, Abrams and Bailess LLP, and others) and other service providers for work that was expensed to HERA and ERA. Lastly, there are a myriad of documents related to HERA that Plaintiff provided in discovery in its litigation with Daugherty through 2013, but that Plaintiff failed to provide on an updated basis through 2022. All of these documents and communications, as well as similar documents and communications, are in the sole possession of Plaintiff and must be produced. Pursuant to Federal Rule of Civil Procedure 33(d), Daugherty will separately produce to Plaintiff examples of such records that Daugherty has been able to obtain from other sources.

INTERROGATORY NO. 5:

Identify each category of damages claimed by You, including the amount of damages and the methodology utilized for calculating such damages. *See* FED. R. CIV. P. 26 (a)(1)(A)(ii).

ANSWER: Daugherty answers that any actual damages related to Plaintiff's breach of the books and records provision of the Settlement Agreement are contingent upon future events. As such,

those damages are not yet quantifiable. Daugherty also seeks relief in the form of specific performance and recovery of his attorneys' fees for Plaintiff's breach of the Settlement Agreement. The amount of methodology of the attorneys' fees in this case will be provided through expert testimony. Pursuant to the Order Approving Stipulated Scheduling Order [Doc. No. 37], Daugherty will disclose information concerning his testifying experts on or before February 13, 2026.

AMENDED ANSWER: Pursuant to Fed. R. Civ. P. 33(d), Daugherty refers Highland to Documents produced concurrently herewith at Bates PDADV_006886-PDADV_006905 that are redacted attorney's fee invoices from Daugherty's counsel relating to his counterclaim for attorney's fees through the end of October 2025. Daugherty will supplement any additional redacted invoices that also contain time entries that Daugherty will seek in connection with his counterclaim. With respect to Daugherty's other damage claim, any actual damages related to Highland's breach of the books and records provision of the Settlement Agreement are contingent on the outcome of the *HERA v. Dondero et al.* lawsuit. In the event that the HERA v. Dondero et al. lawsuit were dismissed or was otherwise lost due to books and records that Highland failed to produce to Daugherty under the Settlement Agreement, Daugherty would seek as damages based on his applicable ownership interest in HERA, of the damages sought by HERA in that lawsuit. Daugherty also seeks relief in the form of specific performance on his counterclaim.

INTERROGATORY NO. 6:

For each conversation with a current or former Highland employee, officer, agent, or representative that You recorded without his or her knowledge or consent, identify (a) the name of the person whose voice was recorded, (b) the date of the recording, (c) the method of recordation, and (d) the length of each conversation.

ANSWER: Daugherty objects to this interrogatory because it seeks information not relevant to the immediate lawsuit. Fed. R. Civ. P. 26(b)(1). Plaintiff's lawsuit is focused solely on Daugherty's claim in the underlying bankruptcy case, which is premised entirely on the 2008 Refund and related tax issues. Daugherty's counterclaim is based on Plaintiff's breach of the Settlement Agreement for failing to produce HERA and ERA's books and records. This interrogatory has no bearing on either of those claims, and Plaintiff cannot use discovery for the sole purpose of developing new claims. *See* Fed. R. Civ. P. 26(b)(1), Advisory Committee Note (2000) ("The court…has the authority to confine discovery to the claims and defenses asserted in the pleadings, and…the parties…have no entitlement to discovery to develop new claims or defenses that are not already identified in the pleadings.")

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answers was served, via email, on counsel for Highland Capital Management, L.P., on this 12th day of December, 2025.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT 8

SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF HIGHLAND CAPITAL MANAGEMENT, L.P.

TABLE OF CONTENTS

		Page
ARTICLE 1	GENERAL	2
1.1	Continuation	2
1.2	Name	2
1.3	Purpose	2
1.4	Term	2
1.5	Partnership Offices; Addresses of Partners	2
ARTICLE 2	DEFINITIONS	3
2.1	Definitions	3
2.2.	Other Definitions	6
ARTICLE 3	FINANCIAL MATTERS	6
3.1	Capital Contributions	6
3.2	Allocations of Profits and Losses	8
3.3.	Allocations on Transfers	8
3.4.	Special Allocations	8
3.5.	Curative Allocations	8
3.6.	Allocations of Built-in Items	8
3.7	Capital Accounts	8
3.8	Distributive Share for Tax Purposes	8
3.9	Distributions	8
3.10	Compensation and Reimbursement of General Partner	8
3.11	Books, Records, Accounting, and Reports	8
3.12	Tax Matters	8
ARTICLE 4	RIGHTS AND OBLIGATIONS OF PARTNERS	8
4.1	Rights and Obligations of the General Partner	8
4.2	Rights and Obligations of Limited Partners	8
4.3	Transfer of Partnership Interests	8
4.4	Issuances of Partnership Interests to New and Existing Partners	8
4.5	Withdrawal of General Partner	8
4.6	Admission of Substitute Limited Partners and Successor General Partner	8
4.7	Business Opportunities	8
ARTICLE 5	DISSOLUTION AND WINDING UP	8
5.1	Dissolution	8
5.2	Continuation of the Partnership	8
5.3	Liquidation	8
5.4	Distribution in Kind	8
5.5	Cancellation of Certificate of Limited Partnership	8
5.6	Return of Capital	8
5.7	Waiver of Partition	8

DAUGHERTY 000442

Exhibit
H-8
Daugherty 1/29/2026 L.M.

001506

PDADV_004267

ARTICLE 6 GENERAL PROVISIONS 8
6.1 Amendments to Agreement 8
6.2 Addresses and Notices 8
6.3 Titles and Captions 8
6.4 Pronouns and Plurals 8
6.5 Further Action 8
6.6 Binding Effect 8
6.7 Integration 8
6.8 Creditors 8
6.9 Waiver 8
6.10 Counterparts 8
6.11 Applicable Law 8
6.12 Invalidity of Provisions 8

Attachments:

Exhibit A
Exhibit B

SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF HIGHLAND CAPITAL MANAGEMENT, L.P.

THIS SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP is entered into on this 31st day of December, 2004, to be effective as of February 29, 2004, by and among Strand Advisors, Inc., a Delaware corporation ("*Strand*"), as General Partner, and any Person hereinafter admitted as a Limited Partner.

Certain terms used in this Agreement are defined in Article 2.

WITNESSETH:

WHEREAS, on July 7, 1997, Strand and Protective Asset Management, L.L.C. ("*PAM*") formed Ranger Asset Management, L.P. (the "*Partnership*"), pursuant to the Agreement of Limited Partnership of Ranger Asset Management, L.P. (the "*Original Agreement*");

WHEREAS, subsequent to the date of the formation of the Partnership, PAM and the Partnership merged, with the Partnership being the surviving entity;

WHEREAS, the Partners amended and restated the Original Agreement to reflect the transactions described above and to make certain other changes to the Original Agreement (the "*Amended Agreement*");

WHEREAS, on July 7, 1998, the Partnership filed a Certificate of Amendment of Certificate of Limited Partnership of Ranger Asset Management, L.P., changing its name from Ranger Asset Management, L.P. to Highland Capital Management, L.P.;

WHEREAS, James D. Dondero Transferred: (i) a 7% interest as a Limited Partner to The Get Good Trust on June 29, 2001; (ii) a 5% interest as a Limited Partner to The Get Good Trust on January 31, 2002; (iii) a 52% interest as a Limited Partner to The Get Better Trust on June 10, 2002; and (iv) a 10% interest as a Limited Partner to Canis Minor Trust on November 29, 2002;

WHEREAS, The Get Better Trust Transferred a 5% interest as a Limited Partner to James D. Dondero on September 25, 2003;

WHEREAS, Mark K. Okada Transferred: (i) a 7% interest as a Limited Partner to The Mark and Pamela Okada Family Trust—Exempt Trust #1 on June 30, 2000, and (ii) a 3% interest as a Limited Partner to The Mark and Pamela Okada Family Trust—Exempt Trust #2 on June 30, 2000;

WHEREAS, on February 29, 2004, the Partnership issued the following Partnership Interests that are treated as "profits interests" for federal income tax purposes to the following Persons who agreed to provide services to the Partnership: (i) a 0.303% interest as a Limited Partner to Bradford Borud; (ii) a 0.608% interest as a Limited Partner to Patrick Daugherty; (iii) a 0.544% interest as a Limited Partner to David Deadman; (iv) a 0.549% interest as a Limited Partner to R. Joseph Dougherty; (v) a 0.390% interest as a Limited Partner to Paul Kauffman; (vi) a 0.281% interest as a Limited Partner to John Morgan; (vii) a 0.426% interest as a Limited Partner to Kurtis Plumer; (viii) a 0.624% interest as a Limited Partner to Todd A. Travers; (ix) a 0.203% interest as a Limited Partner to David Walls; and (x) a 0.407% interest as a Limited Partner to John Yang; (collectively, the "*Profits Interest Partners*");

WHEREAS, on May 27, 2004, the Partnership, James D. Dondero, Mark K. Okada and their Affiliates entered into the Buy-Sell and Redemption Agreement to promote their mutual best interests by providing for certain obligations concerning the purchase of Partnership Interests by and among James D. Dondero, Mark K. Okada and their Affiliates upon the occurrence of certain events (the "*Original Buy-Sell and Redemption Agreement*");

WHEREAS, on December 31, 2004, the Partnership, James D. Dondero, Mark K. Okada and their Affiliates amended and restated the Original Buy-Sell and Redemption Agreement to include the Profits Interest Partners as parties to that agreement and to make certain other changes, all of which shall be effective as of February 29, 2004 (the "*Amended Buy-Sell and Redemption Agreement*");

WHEREAS, the Partners desire to amend and restate the Amended Agreement to (i) incorporate the February 29, 2004, admission of the Profits Interest Partners to the Partnership; (ii) incorporate the Amended Buy-Sell and Redemption Agreement; and (iii) to make certain other changes to the Amended Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereby agree as follows:

ARTICLE 1

GENERAL

1.1 Continuation. Subject to the provisions of this Agreement, the Partners hereby continue the Partnership as a limited partnership pursuant to the provisions of the Delaware Act. Except as expressly provided herein, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Delaware Act.

1.2 Name. The name of the Partnership shall be, and the business of the Partnership shall be conducted under the name of Highland Capital Management, L.P. The General Partner, in its sole and unfettered discretion, may change the name of the Partnership at any time and from time to time and shall provide Limited Partners with written notice of such name change within twenty (20) days after such name change.

1.3 Purpose. The purpose and business of the Partnership shall be the conduct of any business or activity that may lawfully be conducted by a limited partnership organized pursuant to the Delaware Act. Any or all of the foregoing activities may be conducted directly by the Partnership or indirectly through another partnership, joint venture, or other arrangement.

1.4 Term. The Partnership was formed as a limited partnership on July 7, 1997, and shall continue until terminated pursuant to this Agreement.

1.5 Partnership Offices; Addresses of Partners.

(a) Partnership Offices. The registered office of the Partnership in the State of Delaware shall be 1013 Centre Road, Wilmington, Delaware 19805-1297, and its registered agent for service of process on the Partnership at that registered office shall be Corporation Service Company, or such other registered office or registered agent as the General Partner may from time to time designate. The principal office of the Partnership shall be Two Galleria Tower, 13455 Noel Road, Suite 1300, Dallas, Texas 75240, or such other place as the General Partner may from time to time designate. The Partnership may maintain offices at such other place or places as the General Partner deems advisable.

(b) Addresses of Partners. The address of the General Partner is Two Galleria Tower, 13455 Noel Road, Suite 1300, Dallas, Texas 75240. The address of each Limited Partner shall be the address of that Limited Partner appearing on the books and records of the Partnership. Each Limited Partner agrees to provide the General Partner with prompt written notice of any change in his/her/its address.

ARTICLE 2

DEFINITIONS

2.1 Definitions. The following definitions shall apply to the terms used in this Agreement, unless otherwise clearly indicated to the contrary in this Agreement:

"*Additional Capital Contribution*" has the meaning set forth in Section 3.1(b) of this Agreement.

"*Adjusted Capital Account Deficit*" means, with respect to any Partner, the deficit balance, if any, in the Capital Account of that Partner as of the end of the relevant Fiscal Year, or other relevant period, giving effect to all adjustments previously made thereto pursuant to Section 3.7 and further adjusted as follows: (i) credit to that Capital Account, any amounts which that Partner is obligated or deemed obligated to restore pursuant to any provision of this Agreement or pursuant to Treasury Regulations Section 1.704-1(b)(2)(ii)(c); (ii) debit to that Capital Account, the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6); and (iii) to the extent required under the Treasury Regulations, credit to that Capital Account (A) that Partner's share of "minimum gain" and (B) that Partner's share of "partner nonrecourse debt minimum gain." (Each Partner's share of the minimum gain and partner nonrecourse debt minimum gain shall be determined under Treasury Regulations Sections 1.704-2(g) and 1.704-2(i)(5), respectively.)

"*Affiliate*" means any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question. As used in this definition, the term "*control*" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting Securities, by contract or otherwise.

"*Agreement*" means this Second Amended and Restated Agreement of Limited Partnership, as it may be amended, supplemented, or restated from time to time.

"*Amended Buy-Sell and Redemption Agreement*" means that certain Amended and Restated Buy-Sell and Redemption Agreement, dated December 31, 2004, to be effective as of February 29, 2004, by and between the Partnership and its Partners, as may be amended, supplemented, or restated from time to time.

"*Business Day*" means Monday through Friday of each week, except that a legal holiday recognized as such by the government of the United States or the State of Texas shall not be regarded as a Business Day.

"*Capital Account*" means the capital account maintained for a Partner pursuant to Section 3.7(a).

"*Capital Contribution*" means, with respect to any Partner, the amount of money or property contributed to the Partnership with respect to the interest in the Partnership held by that Person.

"*Certificate of Limited Partnership*" means the Certificate of Limited Partnership filed with the Secretary of State of Delaware by the General Partner, as that Certificate may be amended, supplemented or restated from time to time.

"*Code*" means the Internal Revenue Code of 1986, as amended and in effect from time to time.

"*Default Loan*" has the meaning set forth in Section 3.1(c)(i).

"*Defaulting Partner*" has the meaning set forth in Section 3.1(c).

"*Delaware Act*" means the Delaware Revised Uniform Limited Partnership Act, Part IV, Title C, Chapter 17 of the Delaware Corporation Law Annotated, as it may be amended, supplemented or restated from time to time, and any successor to that Act.

"*Fiscal Year*" has the meaning set forth in Section 3.11(b).

"*Founding Partner Group*" means, collectively, Strand Advisors, Inc., Canis Minor Trust, James D. Dondero, The Get Good Trust, The Get Better Trust, Mark K. Okada, The Mark and Pamela Okada Family Trust-Exempt #1, and The Mark and Pamela Okada Family Trust-Exempt #2.

"*General Partner*" means any Person who (i) is referred to as such in the first paragraph of this Agreement, or has become a General Partner pursuant to the terms of this Agreement; and (ii) has not ceased to be a General Partner pursuant to the terms of this Agreement.

"*HCM Plan*" means the Second Amended and Restated HCM Services Long-Term Incentive Plan, established by Highland Capital Management Services, Inc., a Delaware corporation, as it may be amended, supplemented, or restated from time to time.

"*Limited Partner*" means any Person who (i) is referred to as such in the first paragraph of this Agreement, or has become a Limited Partner pursuant to the terms of this Agreement, and (ii) has not ceased to be a Limited Partner pursuant to the terms of this Agreement.

"*Liquidator*" has the meaning set forth in Section 5.3.

"*Losses*" means, for each Fiscal Year, the losses and deductions of the Partnership determined in accordance with accounting principles consistently applied from year to year employed under the Partnership's method of accounting and as reported, separately or in the aggregate, as appropriate, on the Partnership's information tax return filed for federal income tax purposes, plus any expenditures described in Code Section 705(a)(2)(B).

"*Majority Interest*" means the owners of more than fifty percent (50%) of the Percentage Interests of Limited Partners.

"*New Issues*" means Securities that are considered to be "new issues," as defined in the Conduct Rules of the National Association of Securities Dealers, Inc.

"*Nonrecourse Deduction*" has the meaning set forth in Treasury Regulations Section 1.704-2(b)(1), as computed under Treasury Regulations Section 1.704-2(c).

"*Nonrecourse Liability*" has the meaning set forth in Treasury Regulations Section 1.704-2(b)(3).

"*Partner*" means a General Partner or a Limited Partner.

"*Partner Nonrecourse Debt*" has the meaning set forth in Treasury Regulations Section 1.704-2(b)(4).

"*Partner Nonrecourse Deductions*" has the meaning set forth in Treasury Regulations Section 1.704-2(i)(2).

"*Partner Nonrecourse Debt Minimum Gain*" has the meaning set forth in Treasury Regulations Section 1.704-2(i)(5).

"*Partnership*" means Highland Capital Management, L.P., the Delaware limited partnership established pursuant to this Agreement.

"*Partnership Capital*" means, as of any relevant date, the net book value of the Partnership's assets, as determined by the General Partner in its sole and unfettered discretion.

"*Partnership Interest*" means the interest acquired by a Partner in the Partnership including, without limitation, that Partner's right: (a) to an allocable share of the Profits, Losses, deductions, and credits of the Partnership; (b) to a distributive share of the assets of the Partnership; (c) if a Limited Partner, to vote on those matters described in this Agreement; and (d) if the General Partner, to manage and operate the Partnership.

"*Partnership Minimum Gain*" has the meaning set forth in Treasury Regulations Section 1.704-2(d).

"*Percentage Interest*" means the percentage set forth opposite each Partner's name on Exhibit A, as such Exhibit may be amended from time to time in accordance with this Agreement.

"*Person*" means an individual or a corporation, partnership, trust, estate, unincorporated organization, association, or other entity.

"*Profits*" means, for each Fiscal Year, the income and gains of the Partnership determined in accordance with accounting principles consistently applied from year to year employed under the Partnership's method of accounting and as reported, separately or in the aggregate, as appropriate, on the Partnership's information tax return filed for federal income tax purposes, plus any income described in Code Section 705(a)(1)(B).

"*Profits Interest Partner*" means, (i) Bradford Borud, Patrick Daugherty, David Deadman, R. Joseph Dougherty, Paul Kauffman, John Morgan, Kurtis Plumer, Todd A. Travers, David Walls, and John Yang; and (ii) any other Person who is issued a Partnership Interest that is treated as a "profits interest" for federal income tax purposes.

"*Record Date*" means the date established by the General Partner for determining the identity of Limited Partners entitled to vote or give consent to Partnership action or entitled to exercise rights in respect of any other lawful action of Limited Partners.

"*Securities*" means the following: (i) securities of any kind (including, without limitation, "securities" as that term is defined in Section 2(a)(1) of the Securities Act; (ii) commodities of any kind (as that term is defined by the U.S. Securities Laws and the rules and regulations promulgated thereunder); (iii) any contracts for future or forward delivery of any security, commodity or currency; (iv) any contracts based on any securities or group of securities, commodities or currencies; (v) any

options on any contracts referred to in clauses (iii) or (iv); or (vi) any evidences of indebtedness (including participations in or assignments of bank loans or trade credit claims). The items set forth in clauses (i) through (vi) herein include, but are not limited to, capital stock, common stock, preferred stock, convertible securities, reorganization certificates, subscriptions, warrants, rights, options, puts, calls, bonds, mutual fund interests, debentures, notes, certificates of deposit, letters of credit, bankers acceptances, trust receipts and other securities of any corporation or other entity, whether readily marketable or not, rights and options, whether granted or written by the Partnership or by others, treasury bills, bonds and notes, any securities or obligations issued or guaranteed by the United States or any foreign country or any state or possession of the United States or any foreign country or any political subdivision or agency or instrumentality of any of the foregoing, and derivatives of any of the foregoing.

"*Securities Act*" means the Securities Act of 1933, as amended, and any successor to such statute.

"*Substitute Limited Partner*" has the meaning set forth in Section 4.6(a).

"*Transfer*" or derivations thereof, of a Partnership Interest means, as a noun, the transfer, sale, assignment, exchange, pledge, hypothecation or other disposition of a Partnership Interest, or any part thereof, directly or indirectly, and as a verb, voluntarily or involuntarily to transfer, sell, assign, exchange, pledge, hypothecate or otherwise dispose of.

"*Treasury Regulations*" means the Department of Treasury Regulations promulgated under the Code, as amended and in effect (including corresponding provisions of succeeding regulations).

2.2 **Other Definitions.** All terms used in this Agreement that are not defined in this Article 2 have the meanings contained elsewhere in this Agreement.

ARTICLE 3

FINANCIAL MATTERS

3.1 Capital Contributions.

(a) Initial Capital Contributions. The initial Capital Contribution of each Partner shall be set forth in the books and records of the Partnership.

(b) Additional Capital Contributions.

(i) The General Partner, in its reasonable discretion and for a *bona fide* business purpose, may request in writing that the Partners make additional Capital Contributions in proportion to their Percentage Interests (each, an "*Additional Capital Contribution*").

(ii) Any failure by a Partner to make an Additional Capital Contribution requested under Section 3.1(b)(i) on or before the date on which that Additional Capital Contribution was due shall result in the Partner being in default.

(iii) Any Additional Capital Contribution (of more than a *de minimis* amount) shall cause a revaluation of the Partnership as set forth in Section 3.7(f).

(c) Consequences to Defaulting Partners. In the event a Partner is in default under Section 3.1(b) (a "*Defaulting Partner*"), the Defaulting Partner, in its sole and unfettered discretion, may elect to take either one of the option set forth below.

(i) Default Loans. If the Defaulting Partner so elects, the General Partner shall make a loan to the Defaulting Partner in an amount equal to that Defaulting Partner's additional capital contribution (a "*Default Loan*"). A Default Loan shall be deemed advanced on the date actually advanced. Default Loans shall earn interest on the outstanding principal amount thereof at a rate equal to the Applicable Federal Mid-Term Rate (determined by the Internal Revenue Service for the month in which the loan is deemed made) from the date actually advanced until the same is repaid in full. The term of any Default Loan shall be six (6) months, unless otherwise extended by the General Partner in its sole and unfettered discretion. If the General Partner makes a Default Loan, the Defaulting Partner shall not receive any distributions pursuant to Section 3.9(a) or Section 5.3 or any proceeds from the Transfer of all or any part of its Partnership Interest while the Default Loan remains unpaid. Instead, the Defaulting Partner's share of distributions or such other proceeds shall (until all Default Loans and interest thereon shall have been repaid in full) first be paid to the General Partner. Such payments shall be applied first to the payment of interest on such Default Loans and then to the repayment of the principal amounts thereof, but shall be considered, for all other purposes of this Agreement, to have been distributed to the Defaulting Partner. The Defaulting Partner shall be liable for the reasonable fees and expenses incurred by the General Partner (including, without limitation, reasonable attorneys' fees and disbursements) in connection with any enforcement or foreclosure upon any Default Loan and such costs shall, to the extent enforceable under applicable law, be added to the principal amount of the applicable Default Loan. In addition, at any time during the term of such Default Loan, the Defaulting Partner shall have the right to repay, in full, the Default Loan (including interest and any other charges). If the General Partner makes a Default Loan, the Defaulting Partner shall be deemed to have pledged to the General Partner and granted to the General Partner a continuing first priority security interest in, all of the Defaulting Partner's Partnership Interest to secure the payment of the principal of, and interest on, such Default Loan in accordance with the provisions hereof, and for such purpose this Agreement shall constitute a security agreement. The Defaulting Partner shall promptly execute, acknowledge and deliver such financing statements, continuation statements or other documents and take such other actions as the General Partner shall request in writing in order to perfect or continue the perfection of such security interest; and, if the Defaulting Partner shall fail to do so within seven (7) days after the Defaulting Partner's receipt of a notice making demand therefor, the General Partner is hereby appointed the attorney-in-fact of, and is hereby authorized on behalf of, the Defaulting Partner, to execute, acknowledge and deliver all such documents and take all such other actions as may be required to perfect such security interest. Such appointment and authorization are coupled with an interest and shall be irrevocable. The General Partner shall, prior to exercising any right or remedy (whether at law, in equity or pursuant to the terms hereof) available to it in connection with such security interest, provide to the Defaulting Partner a notice, in reasonable detail, of the right or remedy to be exercised and the intended timing of such exercise which shall not be less than five (5) days following the date of such notice.

(ii) Reduction of Percentage Interest. If the Defaulting Partner does not elect to obtain a Default Loan pursuant to Section 3.1(c)(i), the General Partner shall reduce the Defaulting Partner's Percentage Interest in accordance with the following formula:

> The Defaulting Partner's new Percentage Interest shall equal the product of (1) the Defaulting Partner's current Percentage Interest, multiplied by (2) the quotient of (a) the current Capital Account of the Defaulting Partner (with such Capital Account determined after taking into account a revaluation of the Capital Accounts immediately prior to such determination), divided by (b) the sum of (i) the current Capital Account of the Defaulting Partner (with such Capital Account determined after taking into account a revaluation of the Capital Accounts immediately prior to such determination), plus (ii) the amount of the additional capital contribution that such Defaulting Partner failed to make when due.

To the extent any downward adjustment is made to the Percentage Interest of a Partner pursuant to this Section 3.1(c)(ii), any resulting benefit shall accrue to the Partners (other than the Defaulting Partner) in proportion to their respective Percentage Interests.

3.2 Allocations of Profits and Losses.

(a) Allocations of Profits. Except as provided in Sections 3.4, 3.5, and 3.6, Profits for any Fiscal Year will be allocated to the Partners as follows:

(i) First, to the Partners until cumulative Profits allocated under this Section 3.2(a)(i) for all prior periods equal the cumulative Losses allocated to the Partners under Section 3.2(b)(iii) for all prior periods in the inverse order in which such Losses were allocated; and

(ii) Next, to the Partners until cumulative Profits allocated under this Section 3.2(a)(ii) for all prior periods equal the cumulative Losses allocated to the Partners under Section 3.2(b)(ii) for all prior periods in the inverse order in which such Losses were allocated; and

(iii) Then, to all Partners in proportion to their respective Percentage Interests.

Notwithstanding the foregoing, the General Partner, in its sole and unfettered discretion, may allocate up to ten percent (10%) of the Profits for each Fiscal Year among the Profits Interest Partners in any manner it deems appropriate (the "***Reallocation Amount***"). The General Partner shall make such allocation by April 1 of the succeeding Fiscal Year. The General Partner shall have the authority to allocate taxable items under this Article 3 in any manner it deems appropriate to account for these allocations of the Reallocation Amount.

(b) Allocations of Losses. Except as provided in Sections 3.4, 3.5, and 3.6, Losses for any Fiscal Year will be will be allocated as follows:

(i) First, to the Partners until cumulative Losses allocated under this Section 3.2(b)(i) for all prior periods equal the cumulative Profits allocated to the Partners under Section 3.2(a)(iii) for all prior periods in the inverse order in which such Profits were allocated; and

(ii) Next, to the Partners in proportion to their respective positive Capital Account balances until the aggregate Capital Account balances of the Partners (excluding any negative Capital Account balances) equal zero; and

(iii) Then, to all Partners in proportion to their respective Percentage Interests.

(c) Limitation on Loss Allocations. If any allocation of Losses would cause a Partner to have an Adjusted Capital Account Deficit, those Losses instead shall be allocated to the General Partner.

3.3. **Allocations on Transfers.** Taxable items of the Partnership attributable to a Partnership Interest that has been Transferred (including the simultaneous decrease in the Partnership Interest of existing Partners resulting from the admission of a new Partner) shall be allocated between the transferor and the transferee as follows: (i) for the months before the Transfer, to the transferor; (ii) for the months after the Transfer, to the transferee; and (iii) for the month of the Transfer, to the transferee if the Transfer occurs on or before the fifteenth (15th) day of the month and to the transferor if the Transfer occurs thereafter. For purposes of the above allocation, taxable items of the Partnership shall be allocated

equally among the months of the Fiscal Year without regard to the operations of the Partnership during those months. Distributions of assets of the Partnership with respect to a Partnership Interest shall be made only to the Persons who, according to the records of the Partnership, are the owners, on the actual date of distribution, of the Partnership Interests with respect to which the distributions are made. No liability shall result from making distributions in accordance with the provisions of the preceding sentence, whether or not the General Partner or the Partnership has knowledge or notice of a Transfer or purported Transfer of ownership of a Partnership Interest.

3.4. Special Allocations. If the requisite stated conditions or facts are present, the following special allocations shall be made in the following order:

(a) Partnership Minimum Gain Chargeback. Notwithstanding any other provision of this Article 3, if there is a net decrease in Partnership Minimum Gain during any taxable year or other period for which allocations are made, prior to any other allocation under this Agreement, each Partner shall be specially allocated items of Partnership income and gain for that period (and, if necessary, subsequent periods) in proportion to, and to the extent of, an amount equal to that Partner's share of the net decrease in Partnership Minimum Gain during that year determined in accordance with Treasury Regulations Section 1.704-2(g)(2). The items to be allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(g). This Section 3.4(a) is intended to comply with the partnership minimum gain chargeback requirements of the Treasury Regulations and shall be subject to all exceptions provided therein.

(b) Partner Nonrecourse Debt Minimum Gain Chargeback. Notwithstanding any other provision of this Article 3 (other than Section 3.4(a)), if there is a net decrease in Partner Nonrecourse Debt Minimum Gain with respect to a Partner Nonrecourse Debt during any taxable year or other period for which allocations are made, any Partner with a share of such Partner Nonrecourse Debt Minimum Gain as of the beginning of the year shall be specially allocated items of Partnership income and gain for that period (and, if necessary, subsequent periods in an amount equal to that Partner's share of the net decrease in the Partner Nonrecourse Debt Minimum Gain during that year determined in accordance with Treasury Regulations Section 1.704-2(g)(2). The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(g). This Section 3.4(b) is intended to comply with the partner nonrecourse debt minimum gain chargeback requirements of the Treasury Regulations, shall be interpreted consistently with the Treasury Regulations and shall be subject to all exceptions provided therein.

(c) Qualified Income Offset. If a Partner unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (d)(5) or (d)(6), then items of Partnership income and gain shall be specially allocated to each such Partner in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit of the Partner as quickly as possible; *provided, however*, an allocation pursuant to this Section 3.4(c) shall be made if and only to the extent that the Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 3 have been tentatively made without considering this Section 3.4(c).

(d) Gross Income Allocation. If a Partner has a deficit Capital Account at the end of any Fiscal Year of the Partnership that exceeds the sum of (i) the amount the Partner is obligated to restore, and (ii) the amount the Partner is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), then each such Partner shall be specially allocated items of income and gain of the Partnership in the amount of the excess as quickly as possible; *provided, however*, an allocation pursuant to this Section 3.4(d) shall be made if and only to the extent that the Partner would have a deficit Capital Account in excess of that sum after all other

allocations provided for in this Article 3 have been tentatively made without considering Section 3.4(c) or 3.4(d).

(e) Nonrecourse Deductions. Nonrecourse Deductions for any taxable year or other period for which allocations are made shall be allocated among the Partners in accordance with their Percentage Interests.

(f) Partner Nonrecourse Deductions. Notwithstanding anything to the contrary in this Agreement, any Partner Nonrecourse Deductions for any taxable year or other period for which allocations are made will be allocated to the Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which the Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any asset of the Partnership under Code Section 734(b) or Code Section 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of the adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) and that gain or loss shall be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to that Section of the Treasury Regulations.

3.5. **Curative Allocations.** The "*Basic Regulatory Allocations*" consist of (i) the allocations pursuant to Section 3.2(c), and (ii) the allocations pursuant to Sections 3.4. Notwithstanding any other provision of this Agreement, the Basic Regulatory Allocations shall be taken into account in allocating items of income, gain, loss and deduction among the Partners so that, to the extent possible, the net amount of the allocations of other items and the Basic Regulatory Allocations to each Partner shall be equal to the net amount that would have been allocated to each such Partner if the Basic Regulatory Allocations had not occurred. For purposes of applying the foregoing sentence, allocations pursuant to this Section 3.5 shall be made only with respect to allocations pursuant to Section 3.4(g) to the extent that it can reasonably be determined that those allocations will otherwise be inconsistent with the economic agreement among the parties to this Agreement.

3.6. **Allocations of Built-in Items.** In accordance with Code Sections 704(b) and 704(c) and the Treasury Regulations thereunder, income, gain, loss and deduction with respect to property actually or constructively contributed to the capital of the Partnership (for example, as set forth in Section 3.7(f)) shall, solely for tax purposes, be allocated among the Partners so as to take account of any variation at the time of the contribution between the tax basis of the property to the Partnership and the fair market value of that property. Except as otherwise provided herein, any elections or other decisions relating to those allocations shall be made by the General Partner in any manner that reasonably reflects the purpose and intent of this Agreement. Allocations of income, gain, loss and deduction pursuant to this Section 3.6 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, the Capital Account of any Partner or the share of Profits, Losses, other tax items or distributions of any Partner pursuant to any provision of this Agreement.

3.7 Capital Accounts.

(a) Maintenance of Capital Accounts. The Partnership shall establish and maintain a separate capital account ("*Capital Account*") for each Partner in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv) and in accordance with the provisions set forth in this Section 3.7; *provided, however*, the General Partner shall "book-up" or "book-down" the Capital Accounts of the Partners in accordance with Section 3.7(f).

(i) The Capital Account balance of each Partner shall be credited (increased) by (A) the amount of cash contributed by that Partner to the capital of the Partnership, (B) the fair market value of property contributed by that Partner to the capital of the Partnership (net of liabilities secured by that contributed property that the Partnership assumes or takes subject to under Code Section 752), and (C) that Partner's allocable share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Sections 3.4 and 3.5; and

(ii) The Capital Account balance of each Partner shall be debited (decreased) by (A) the amount of cash distributed to that Partner by the Partnership, (B) the fair market value of property distributed to that Partner by the Partnership (net of liabilities secured by that distributed property that such Partner assumes or takes subject to under Code Section 752), (C) that Partner's allocable share of expenditures of the Partnership described in Code Section 705(a)(2)(B), and (D) that Partner's allocable share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Sections 3.2, 3.4 and 3.5.

The provisions of this Section 3.7 and the other provisions of this Agreement relating to the maintenance of Capital Accounts have been included in this Agreement to comply with Code Section 704(b) and the Treasury Regulations promulgated thereunder and will be interpreted and applied in a manner consistent with those provisions. The General Partner may modify the manner in which the Capital Accounts are maintained under this Section 3.7 in order to comply with those provisions, as well as upon the occurrence of events that might otherwise cause this Agreement not to comply with those provisions.

(b) Negative Capital Accounts. If any Partner has a deficit balance in its Capital Account, that Partner shall have no obligation to restore that negative balance or to make any Capital Contribution by reason thereof, and that negative balance shall not be considered an asset of the Partnership or of any Partner.

(c) Interest. No interest shall be paid by the Partnership on Capital Contributions or on balances in Capital Accounts.

(d) No Withdrawal. No Partner shall be entitled to withdraw any part of his/her/its Capital Contribution or his/her/its Capital Account or to receive any distribution from the Partnership, except as provided in Section 3.9 and Article 5.

(e) Loans From Partners. Loans by a Partner to the Partnership shall not be considered Capital Contributions.

(f) Revaluations. The General Partner shall "book-up" or "book-down" the Capital Accounts of the Partners to their fair market values, regardless of the rules set forth in Treasury Regulations Section 1.704(c)-1(b)(2)(iv)(f), at the following times: (i) immediately prior to (A) a Capital Contribution (of more than a *de minimis* amount) to the Partnership by a new or existing Partner as consideration for a Partnership Interest, (B) the liquidation of the Partnership or a distribution of property (of more than a *de minimis* amount) by the Partnership to a retiring or continuing Partner as consideration for a Partnership Interest, or (C) the issuance of a new Partnership Interest (other than a *de minimis* amount) as consideration of the provision of services to or for the benefit of the Partnership by an existing Partner acting in a Partner capacity or by a new Partner acting in a partner capacity or in anticipation of being a Partner, and (ii) on January 1 of each Fiscal Year. The resulting increase or decrease in the Capital Accounts of each Partner shall be treated as a Code Section 704(c) item.

(g) Capital Accounts as of February 29, 2004. The Partners hereby acknowledge that, on February 29, 2004, after the Partnership's issuance of Partnership Interests to Profits Interest Partners:

(i) The Partnership "booked-up" the Capital Account of each Partner that is a member of the Founding Partner Group to its fair market value, and the resulting increase or decrease in the Capital Accounts of each Partner that is a member of the Founding Partner Group was treated as a Code Section 704(c) item. On February 29, 2004, the "book" Capital Account for each Partner that is a member of the Founding Partner Group is set forth below:

Strand Advisors, Inc.	$1,250,000
Canis Minor Trust	$12,500,000
James D. Dondero	$6,250,000
The Get Good Trust	$15,000,000
The Get Better Trust	$58,750,000
The Mark and Pamela Okada Family Trust-Exempt #1	$8,750,000
The Mark and Pamela Okada Family Trust-Exempt #2	$3,750,000
Mark K. Okada	$18,750,000
TOTAL	$125,000,000

(ii) On February 29, 2004, each Profits Interest Partner had a Capital Account balance of zero (0).

3.8 **Distributive Share for Tax Purposes.** Items of Partnership gain or loss recognized for federal income tax purposes and arising from Securities will be allocated among the Partners in accordance with the methods set forth in Treasury Regulations Section 1.704-3(e)(3) promulgated under Code Section 704(c). All other items of income, deduction, gain, loss or credit that are recognized for federal income tax purposes will be allocated amount the Partners in accordance with the allocations of Profits and Losses hereunder as determined by the General Partner in its sole and unfettered discretion. Notwithstanding the foregoing, the General Partner will (i) as to each New Issue, specially allocate to the Partners who were allocated New Issue Profit from that New Issue any short-term capital gains realized during the Fiscal Year upon the disposition of such New Issue during that Fiscal Year, and (ii) specially allocate items of gain (or loss) to Partners who withdraw capital during any Fiscal Year in a manner designed to ensure that each withdrawing Partner is allocated gain (or loss) in an amount equal to the difference between that Partner's Capital Account balance (or portion thereof being withdrawn) at the time of the withdrawal and the tax basis for his/her/ its Partnership Interest at that time (or proportionate amount thereof); *provided, however*, that the General Partner may, without the consent of any other Partner, (a) alter the allocation of any item of taxable income, gain, loss, deduction or credit in any specific instance where the General Partner, in its sole and unfettered discretion, determines such alteration to be necessary or appropriate to avoid a materially inequitable result (*e.g.*, where the allocation would create an inappropriate tax liability); and/or (b) adopt whatever other method of allocating tax items as the General Partner determines is necessary or appropriate in order to be consistent with the spirit and intent of the Treasury Regulations under Code Sections 704(b) and 704(c).

3.9 **Distributions.**

(a) General. The General Partner shall review the Partnership's accounts at the end of each calendar quarter to determine whether distributions are appropriate. The General Partner may make such distributions as it may determine in its sole and unfettered discretion, without being limited to current or accumulated income or gains, but no such distribution shall be made out of funds required to make current payments on Partnership indebtedness. The Partnership has entered into one or more credit facilities with financial institutions that may limit the amount and timing of distributions to the Partners. Thus, the Partners acknowledge that distributions from the Partnership may be limited. Except to the extent Sections 5.3 or 5.4 are applicable, all distributions pursuant to this Section 3.9 shall generally be made in proportion to the Partners' Capital Accounts; *provided, however*, the General Partner may, in its

sole and unfettered discretion, make a disproportionate distribution to a Partner to the extent that Partner has (or is anticipated to have by the end of the current Fiscal Year) a sufficient positive balance in his/her/its Capital Account therefor; *provided, further*, the maximum amount per Fiscal Year that the General Partner may distribute to a member of the Founding Partner Group in a disproportionate distribution is ten percent (10%) of Partnership Capital.

(b) Tax Distributions. The General Partner shall promptly declare and make cash distributions pursuant hereto to the Partners to allow the federal and state income tax attributable to the Partnership's taxable income that is passed through the Partnership to the Partners to be paid by such Partners (a "*Tax Distribution*"). To satisfy this requirement, the Partnership shall pay to each Partner on or before April 14 of each Fiscal Year, an amount at least equal to the product of (i) the sum of the Partnership's positive taxable income attributed to that Partner during the prior Fiscal Year (including without limitation, the taxable income attributable to the special allocation of Profits constituting the Reallocation Amount) multiplied by (ii) the sum of the highest federal and state individual income tax rates imposed on any Partner in effect that prior Fiscal Year. Any Tax Distribution to a Partner shall reduce the amount that Partner is otherwise entitled to receive on its next distribution pursuant to Section 3.9(a).

(c) Payments Not Deemed Distributions. Any amounts paid pursuant to Sections 4.1(e) or 4.1(h) shall not be deemed to be distributions for purposes of this Agreement.

(d) Withheld Amounts. Notwithstanding any other provision of this Section 3.9 to the contrary, each Partner hereby authorizes the Partnership to withhold and to pay over, or otherwise pay, any withholding or other taxes payable by the Partnership with respect to that Partner as a result of that Partner's participation in the Partnership. If and to the extent that the Partnership shall be required to withhold or pay any such taxes, that Partner shall be deemed for all purposes of this Agreement to have received a payment from the Partnership as of the time that withholding or tax is paid, which payment shall be deemed to be a distribution with respect to that Partner's Partnership Interest to the extent that the Partner (or any successor to that Partner's Partnership Interest) is then entitled to receive a distribution. To the extent that the aggregate of such payments to a Partner for any period exceeds the distributions to which that Partner is entitled for that period, the amount of such excess shall be considered a loan from the Partnership to that Partner. Such loan shall bear interest (which interest shall be treated as an item of income to the Partnership) at the "Applicable Federal Rate" (as defined in the Code), as determined hereunder from time to time, until discharged by that Partner by repayment, which may be made in the sole and unfettered discretion of the General Partner out of distributions to which that Partner would otherwise be subsequently entitled. Any withholdings authorized by this Section 3.9(d) shall be made at the maximum applicable statutory rate under the applicable tax law unless the General Partner shall have received an opinion of counsel or other evidence satisfactory to the General Partner to the effect that a lower rate is applicable, or that no withholding is applicable.

3.10 Compensation and Reimbursement of General Partner.

(a) Compensation. The General Partner and any Affiliate of the General Partner shall receive no compensation from the Partnership for services rendered pursuant to this Agreement or any other agreements unless approved by a Majority Interest.

(b) Reimbursement for Expenses. In addition to amounts paid under other Sections of this Agreement, the General Partner and its Affiliates shall be reimbursed for all expenses, disbursements, and advances incurred or made, and all fees, deposits, and other sums paid in connection with the organization and operation of the Partnership, the qualification of the Partnership to do business, and all related matters.

3.11 Books, Records, Accounting, and Reports.

(a) Records and Accounting. The General Partner shall keep or cause to be kept appropriate books and records with respect to the Partnership's business, which shall at all times be kept at the principal office of the Partnership or such other office as the General Partner may designate for such purpose. The books of the Partnership shall be maintained for financial reporting purposes on the accrual basis or on a cash basis, as the General Partner shall determine in its sole and unfettered discretion, in accordance with generally accepted accounting principles and applicable law.

(b) Fiscal Year. The fiscal year of the Partnership shall be the calendar year unless otherwise determined by the General Partner in its sole and unfettered discretion.

(c) Reports.

(i) As soon as reasonably practicable after the end of each Fiscal Year, the General Partner shall cause to be mailed to each Partner reports containing financial statements of the Partnership for that Fiscal Year, presented on cash or accrual basis, including a balance sheet and statement of income and, if the General Partner shall so determine, in its sole and unfettered discretion, such statements may be audited by a firm of independent public accountants selected by the General Partner.

(ii) As soon as reasonably practicable after the end of each fiscal quarter of the Partnership, the General Partner shall, if it shall so determine in its sole and unfettered discretion, cause to be mailed to each Partner a report containing such financial information for that calendar quarter as the General Partner deems appropriate.

(d) Other Information. The General Partner may release information concerning the operations of the Partnership to any financial institution or other Person that has loaned or may loan funds to the Partnership or the General Partner or any of its Affiliates, and may release such information to any other Person for reasons reasonably related to the business and operations of the Partnership or as required by law or regulation of any regulatory body.

3.12 Tax Matters.

(a) Tax Returns. The General Partner shall arrange for the preparation and timely filing of all returns of Partnership income, gain, loss, deduction, credit and other items necessary for federal, state and local income tax purposes. The General Partner shall deliver to each Partner as copy of his/her/its IRS Form K-1 as soon as practicable after the end of the Fiscal Year, but in no event later than October 1. The classification, realization, and recognition of income, gain, loss, deduction, credit and other items shall be on the cash or accrual method of accounting for federal income tax purposes, as the General Partner shall determine in its sole and unfettered discretion. The General Partner in its sole and unfettered discretion may pay state and local income taxes attributable to operations of the Partnership and treat such taxes as an expense of the Partnership.

(b) Tax Elections. Except as otherwise provided herein, the General Partner shall, in its sole and unfettered discretion, determine whether to make any available tax election.

(c) Tax Controversies. Subject to the provisions hereof, the General Partner is designated the Tax Matters Partner (as defined in Code Section 6231), and is authorized and required to represent the Partnership, at the Partnership's expense, in connection with all examinations of the Partnership's affairs by tax authorities, including resulting administrative and judicial proceedings, and to

expend Partnership funds for professional services and costs associated therewith. Each Partner agrees to cooperate with the General Partner in connection with such proceedings.

(d) Taxation as a Partnership. No election shall be made by the Partnership or any Partner for the Partnership to be excluded from the application of any of the provisions of Subchapter K, Chapter 1 of Subtitle A of the Code or from any similar provisions of any state tax laws.

ARTICLE 4

RIGHTS AND OBLIGATIONS OF PARTNERS

4.1 Rights and Obligations of the General Partner. In addition to the rights and obligations set forth elsewhere in this Agreement, the General Partner shall have the following rights and obligations:

(a) Management. The General Partner shall conduct, direct, and exercise full control of over all activities of the Partnership. Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership shall be exclusively vested in the General Partner, and Limited Partners shall have no right of control over the business and affairs of the Partnership. In addition to the powers now or hereafter granted to a general partner of a limited partnership under applicable law or that are granted to the General Partner under any provision of this Agreement, the General Partner shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, including, without limitation: (i) the determination of the activities in which the Partnership will participate; (ii) the performance of any and all acts necessary or appropriate to the operation of any business of the Partnership (including, without limitation, purchasing and selling any asset, any debt instruments, any equity interests, any commercial paper, any note receivables and any other obligations); (iii) the procuring and maintaining of such insurance as may be available in such amounts and covering such risks as are deemed appropriate by the General Partner; (iv) the acquisition, disposition, sale, mortgage, pledge, encumbrance, hyphothecation, of exchange of any or all of the assets of the Partnership; (v) the execution and delivery on behalf of, and in the name of the Partnership, deeds, deeds of trust, notes, leases, subleases, mortgages, bills of sale and any and all other contracts or instruments necessary or incidental to the conduct of the Partnership's business; (vi) the making of any expenditures, the borrowing of money, the guaranteeing of indebtedness and other liabilities, the issuance of evidences of indebtedness, and the incurrence of any obligations it deems necessary or advisable for the conduct of the activities of the Partnership, including, without limitation, the payment of compensation and reimbursement to the General Partner and its Affiliates pursuant to Section 3.10; (vii) the use of the assets of the Partnership (including, without limitation, cash on hand) for any Partnership purpose on any terms it sees fit, including, without limitation, the financing of operations of the Partnership, the lending of funds to other Persons, and the repayment of obligations of the Partnership; (viii) the negotiation, execution, and performance of any contracts that it considers desirable, useful, or necessary to the conduct of the business or operations of the Partnership or the implementation of the General Partner's powers under this Agreement; (ix) the distribution of Partnership cash or other assets; (x) the selection, hiring and dismissal of employees, attorneys, accountants, consultants, contractors, agents and representatives and the determination of their compensation and other teens of employment or hiring; (xi) the formation of any further limited or general partnerships, joint ventures, or other relationships that it deems desirable and the contribution to such partnerships, ventures, or relationships of assets and properties of the Partnership; and (xii) the control of any matters affecting the rights and obligations of the Partnership, including, without limitation, the conduct of any litigation, the incurring of legal expenses, and the settlement of claims and suits.

(b) Certificate of Limited Partnership. The General Partner caused the Certificate of Limited Partnership of the Partnership to be filed with the Secretary of State of Delaware as required by the Delaware Act and shall cause to be filed such other certificates or documents (including, without limitation, copies, amendments, or restatements of this Agreement) as may be determined by the General Partner to be reasonable and necessary or appropriate for the formation, qualification, or registration and operation of a limited partnership (or a partnership in which Limited Partners have limited liability) in the State of Delaware and in any other state where the Partnership may elect to do business.

(c) Reliance by Third Parties. Notwithstanding any other provision of this Agreement to the contrary, no lender or purchaser or other Person, including any purchaser of property from the Partnership or any other Person dealing with the Partnership, shall be required to verify any representation by the General Partner as to its authority to encumber, sell, or otherwise use any assess or properties of the Partnership, and any such lender, purchaser, or other Person shall be entitled to rely exclusively on such representations and shall be entitled to deal with the General Partner as if it were the sole party in interest therein, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies that may be available against any such lender, purchaser, or other Person to contest, negate, or disaffirm any action of the General Partner in connection with any such sale or financing. In no event shall any Person dealing with the General Partner or the General Partner's representative with respect to any business or property of the Partnership be obligated to ascertain that the terms of this Agreement have been complied with, and each such Person shall be entitled to rely on the assumptions that the Partnership has been duly formed and is validly in existence. In no event shall any such Person be obligated to inquire into the necessity or expedience of any act or action of the General Partner or the General Partner's representative, and every contract, agreement, deed, mortgage, security agreement, promissory note, or other instrument or document executed by the General Partner or the General Partner's representative with respect to any business or property of the Partnership shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (i), at the time of the execution and delivery thereof, this Agreement was in full force and effect; (ii) such instrument or document was duly executed in accordance with the terms and provisions of this Agreement and is binding upon the Partnership; and (iii) the General Partner or the General Partner's representative was duly authorized and empowered to execute and deliver any and every such instrument or document for and on behalf of the Partnership.

(d) Partnership Funds. The funds of the Partnership shall be deposited in such account or accounts as are designated by the General Partner. The General Partner may, in its sole and unfettered discretion, deposit funds of the Partnership in a central disbursing account maintained by or in the name of the General Partner, the Partnership, or any other Person into which funds of the General Partner, the Partnership, on other Persons are also deposited; *provided, however*, at all times books of account are maintained that show the amount of funds of the Partnership on deposit in such account and interest accrued with respect to such funds as credited to the Partnership. The General Partner may use the funds of the Partnership as compensating balances for its benefit; *provided, however*, such funds do not directly or indirectly secure, and are not otherwise at risk on account of, any indebtedness or other obligation of the General Partner or any director, officer, employee, agent, representative, or Affiliate thereof. Nothing in this Section 4.1(d) shall be deemed to prohibit or limit in any manner the right of the Partnership to lend funds to the General Partner or any Affiliate thereof pursuant to Section 4.1(e)(i). All withdrawals from or charges against such accounts shall be made by the General Partner or by its representatives. Funds of the Partnership may be invested as determined by the General Partner in accordance with the terms and provisions of this Agreement.

(e) Loans to or from General Partner; Contracts with Affiliates; Joint Ventures.

(i) The General Partner or any Affiliate of the General Partner may lend to the Partnership funds needed by the Partnership for such periods of time as the General Partner may

determine; *provided, however*, the General Partner or its Affiliate may not charge the Partnership interest at a rate greater than the rate (including points or other financing charges or fees) that would be charged the Partnership (without reference to the General Partner's financial abilities or guaranties) by unrelated lenders on comparable loans. The Partnership shall reimburse the General Partner or its Affiliate, as the case may be, for any costs incurred by the General Partner or that Affiliate in connection with the borrowing of funds obtained by the General Partner or that Affiliate and loaned to the Partnership.

(ii) The Partnership may loan funds to the General Partner and any Affiliate thereof; *provided, however*, if the amount of that proposed loan exceeds twenty percent (20%) of the aggregate Capital Account balances of the General Partner and its Affiliates, then any Limited Partner may elect to borrow his/her/its pro rata portion of the sum of (a) the amount of the proposed loan minus (b) twenty percent (20%) of the aggregate Capital Account balances of the General Partner and its Affiliates, on the same terms and conditions as the General Partner and/or its Affiliate, as appropriate, and such loan shall be secured by only that Limited Partner's Partnership Interest.

(iii) The General Partner or any of its Affiliates may enter into an agreement with the Partnership to render services, including management services, for the Partnership. Any service rendered for the Partnership by the General Partner or any Affiliate thereof shall be on terms that are fair and reasonable to the Partnership.

(iv) The Partnership may Transfer any assets to joint ventures or other partnerships in which it is or thereby becomes a participant upon terms and subject to such conditions consistent with applicable law as the General Partner deems appropriate.

(v) If requested by a Profits Interest Partner, the Partnership shall lend funds to that Profits Interest Partner in an amount up to the excess of (a) the aggregate amount that would have been distributed to that Profits Interest Partner pursuant to Section 3.9 since first becoming a Profits Interest Partner, if each such distribution made by the Partnership pursuant to Section 3.9 since first becoming a Profits Interest Partner were made in accordance with Percentage Interests in effect at the time of each such distribution over (ii) the aggregate amount actually distributed to such Profits Interest Partner pursuant to Section 3.9 since first becoming a Profits Interest Partner (for this purpose, not taking into account distributions attributable to the special allocations with respect to the Reallocation Amounts). Each such loan shall be recourse to the Profits Interest Partner and shall be secured by his/her Partnership Interest. Each such loan shall bear interest at the Applicable Federal Mid-Term Rate in effect at the time such loan is made and shall have a term of one (1) year; *provided, however*, the loan must be repaid earlier in the case of that Profits Interest Partner's termination of employment from the Partnership or any Affiliate thereof for any reason, with repayment due in four (4) quarterly payments beginning the July 31st after the termination of his/her employment. Notwithstanding the preceding, the maximum loan amount available to any Profits Interest Partner under this Section 4.1(e)(v) shall be the amount specified on Exhibit C.

(f) Outside Activities; Conflicts of Interest. The General Partner or any Affiliate thereof and any director, officer, employee, agent, or representative of the General Partner or any Affiliate thereof shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including, without limitation, business interests and activities in direct competition with the Partnership. Neither the Partnership nor any of the Partners shall have any rights by virtue of this Agreement or the partnership relationship created hereby in any business ventures of the General Partner, any Affiliate thereof, or any director, officer, employee, agent, or representative of either the General Partner or any Affiliate thereof.

(g) Resolution of Conflicts of Interest. Unless otherwise expressly provided in this Agreement or any other agreement contemplated herein, whenever a conflict of interest exists or arises between the General Partner or any of its Affiliates, on the one hand, and the Partnership or any Limited Partner, on the other hand, any action taken by the General Partner, in the absence of bad faith by the General Partner, shall not constitute a breach of this Agreement or any other agreement contemplated herein or a breach of any standard of care or duty imposed herein or therein or under the Delaware Act or any other applicable law, rule, or regulation.

(h) Indemnification. The Partnership shall indemnify and hold harmless the General Partner and any director, officer, employee, agent, or representative of the General Partner (collectively, the *"GP Party"*), against all liabilities, losses, and damages incurred by any of them by reason of any act performed or omitted to be performed in the name of or on behalf of the Partnership, or in connection with the Partnership's business, including, without limitation, attorneys' fees and any amounts expended in the settlement of any claims or liabilities, losses, or damages, to the fullest extent permitted by the Delaware Act; *provided, however*, the Partnership shall have no obligation to indemnify and hold harmless a GP Party for any action or inaction that constitutes gross negligence or willful or wanton misconduct. The Partnership, in the sole and unfettered discretion of the General Partner, may indemnify and hold harmless any Limited Partner, employee, agent, or representative of the Partnership, any Person who is or was serving at the request of the Partnership acting through the General Partner as a director, officer, partner, trustee, employee, agent, or representative of another corporation, partnership, joint venture, trust, or other enterprise, and any other Person to the extent determined by the General Partner in its sole and unfettered discretion, but in no event shall such indemnification exceed the indemnification permitted by the Delaware Act. Notwithstanding anything to the contrary in this Section 4.1(h) or elsewhere in this Agreement, no amendment to the Delaware Act after the date of this Agreement shall reduce or limit in any manner the indemnification provided for or permitted by this Section 4.1(h) unless such reduction or limitation is mandated by such amendment for limited partnerships formed prior to the enactment of such amendment. In no event shall Limited Partners be subject to personal liability by reason of the indemnification provisions of this Agreement.

(i) Liability of General Partner.

(i) Neither the General Partner nor its directors, officers, employees, agents, or representatives shall be liable to the Partnership or any Limited Partner for errors in judgment or for any acts or omissions that do not constitute gross negligence or willful or wanton misconduct.

(ii) The General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its directors, officers, employees, agents, or representatives, and the General Partner shall not be responsible for any misconduct or negligence on the part of any agent or representative appointed by the General Partner.

(j) Reliance by General Partner.

(i) The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(ii) The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, and other consultants and advisers selected by it, and any opinion of any such Person as to matters which the General Partner believes to be within such Person's professional or expert competence shall be full and complete authorization and protection in

respect of any action taken or suffered or omitted by the General Partner hereunder in good faith and in accordance with such opinion.

(k) Limitation on Authority. The General Partner shall have no authority to undertake any of the following actions without the consent of the Limited Partners holding ninety-six percent (96%) of the Percentage Interests:

(i) Do any act which would make it impossible to carry on the ordinary business of the Partnership (excluding the liquidation of the Partnership);

(ii) Possess Partnership property or assign any rights in specific Partnership property for other than a Partnership purpose; and

(iii) Require any Limited Partner to make any contribution to the capital of the Partnership that is not otherwise provided for in this Agreement.

4.2 Rights and Obligations of Limited Partners. In addition to the rights and obligations of Limited Partners set forth elsewhere in this Agreement, Limited Partners shall have the following rights and obligations:

(a) Limitation of Liability. Limited Partners shall have no liability under this Agreement except as provided herein or under the Delaware Act.

(b) Management of Business. No Limited Partner shall take part in the control (within the meaning of the Delaware Act) of the Partnership's business, transact any business in the Partnership's name, or have the power to sign documents for or otherwise bind the Partnership other than as specifically set forth in this Agreement.

(c) Return of Capital. No Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution except to the extent, if any, that distributions made pursuant to this Agreement or upon termination of the Partnership may be considered as such by law and then only to the extent provided for in this Agreement.

(d) Amended Buy-Sell and Redemption Agreement. Each Limited Partner shall comply with the terms and conditions of the Amended Buy-Sell and Redemption Agreement. The admission of the Profits Interest Partners into the Partnership was contingent upon their execution of the Amended Buy-Sell and Redemption Agreement.

4.3 Transfer of Partnership Interests.

(a) Transfer. No Partnership Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Section 4.3 and the Amended Buy-Sell and Redemption Agreement. Any Transfer or purported Transfer of any Partnership Interest not made in accordance with this Section 4.3 and the Amended Buy-Sell and Redemption Agreement shall be null and void. An alleged transferee shall have no right to require any information or account of the Partnership's transactions or to inspect the Partnership's books. The Partnership shall be entitled to treat the alleged transferor of a Partnership Interest as the absolute owner thereof in all respects, and shall incur no liability to any alleged transferee for distributions to the Partner owning that Partnership Interest of record or for allocations of Profits, Losses, deductions or credits or for transmittal of reports and notices required to be given to holders of Partnership Interests.

(b) Transfers by General Partner. The General Partner may Transfer all, but not less than all, of its Partnership Interest to any Person only with the approval of a Majority Interest. Any Transfer by the General Partner of its Partnership Interest under this Section 4.3(b) to an Affiliate of the General Partner or any other Person shall not constitute a withdrawal of the General Partner under Section 4.5(a), Section 5.1(b), or any other provision of this Agreement. If any such Transfer is deemed to constitute a withdrawal under such provisions or otherwise and results in the dissolution of the Partnership under this Agreement or the laws of any jurisdiction to which the Partnership of this Agreement is subject, the Partners hereby unanimously consent to the reconstitution and continuation of the Partnership immediately following such dissolution, pursuant to Section 5.2.

(c) Transfers by Limited Partners. The Partnership Interest of a Limited Partner may not be Transferred without the consent of the General Partner (which consent may be withheld in the sole and unfettered discretion of the General Partner), and in accordance with the Amended Buy-Sell and Redemption Agreement.

(d) Distributions and Allocations in Respect of Transferred Partnership Interests. If any Partnership Interest is Transferred during any Fiscal Year in compliance with the provisions of Article 4 and the Amended Buy-Sell and Redemption Agreement, Profits, Losses, and all other items attributable to the Transferred interest for that period shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during the period in accordance with Code Section 706(d), using any conventions permitted by law and selected by the General Partner. All distributions on or before the date of that Transfer shall be made to the transferor. Solely for purposes of making such allocations and distributions, the Partnership shall recognize that Transfer not later than the end of the calendar month during which it is given notice of that Transfer; *provided, however*, if the Partnership does not receive a notice stating the date that Partnership Interest was Transferred and such other information as the General Partner may reasonably require within thirty (30) days after the end of the Fiscal Year during which the Transfer occurs, then all of such items shall be allocated, and all distributions shall be made, to the person who, according to the books and records of the Partnership, on the last day of the Fiscal Year during which the Transfer occurs, was the owner of the Partnership Interest. Neither the Partnership nor any Partner shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 4.3(d), whether or not any Partner or the Partnership has knowledge of any Transfer of ownership of any Partnership Interest.

4.4 Issuances of Partnership Interests to New and Existing Partners.

(a) Issuance of Partnership Interests to New Limited Partners. The General Partner may admit one or more additional Persons as Limited Partners ("***Additional Limited Partners***") to the Partnership at such times and upon such terms as it deems appropriate in its sole and unfettered discretion. Upon the admission of any Additional Limited Partner, the Percentage Interest of the existing Limited Partners shall be diluted proportionately. No Person may be admitted to the Partnership as a Limited Partner until he/she/it executes an Addendum to this Agreement in the form attached as Exhibit B (which may be modified by the General Partner in its sole and unfettered discretion) and an addendum to the Amended Buy-Sell and Redemption Agreement.

(b) Issuance of an Additional Partnership Interest to an Existing Partner. The General Partner may issue an additional Partnership Interest to any existing Partner at such times and upon such terms as it deems appropriate in its sole and unfettered discretion. Upon the issuance of an additional Partnership Interest to an existing Partner, the Percentage Interest of all existing Limited Partners shall be diluted proportionately; *provided, however*, only the Percentage Interests of the members of the Founding Partner Group shall be diluted when the General Partner issues an additional Partnership Interest to an existing Profits Interest Partner in accordance with the terms of the HCM Plan upon the vesting of that Profits Interest Partner's "Long-Term Incentive Units" (as defined in that Plan) granted to

him/her prior to the date hereof. Any additional Partnership Interest shall be subject to all the terms and conditions of this Agreement and the Amended Buy-Sell and Redemption Agreement.

4.5 Withdrawal of General Partner.

(a) Option. In the event of the withdrawal of the General Partner from the Partnership, the departing General Partner (the "*Departing Partner*") shall, at the option of its successor (if any) exercisable prior to the effective date of the departure of that Departing Partner, promptly receive from its successor in exchange for its Partnership Interest as the General Partner, an amount in cash equal to its Capital Account balance, determined as of the effective date of its departure.

(b) Conversion. If the successor to a Departing Partner does not exercise the option described in Section 4.5(a), the Partnership Interest of the Departing Partner as the General Partner of the Partnership shall be converted into a Partnership Interest as a Limited Partner.

(c) Capital Contribution. If the successor to a Departing Partner does not exercise the option described in Section 4.5(a), its successor shall, at the effective date of its admission to the Partnership, contribute to the capital of the Partnership cash or property or other consideration such that its Capital Account, after giving effect to that contribution, shall be equal to one percent (1%) of the total Capital Account balances at that date.

4.6 Admission of Substitute Limited Partners and Successor General Partner.

(a) Admission of Substitute Limited Partners. A transferee (which may be the heir or legatee of a Limited Partner) or assignee of a Limited Partner's Partnership Interest shall be entitled to receive only the distributive share of the Partnership's Profits, Losses, deductions, and credits attributable to that Partnership Interest. To become a substitute Limited Partner (a "***Substitute Limited Partner***"), that transferee or assignee shall (i) obtain the consent of the General Partner (which consent may be withheld in the sole and unfettered discretion of the General Partner), (ii) comply with all the requirements of this Agreement and the Amended Buy-Sell and Redemption Agreement with respect to the Transfer of the Partnership Interest at issue, and (iii) execute an Addendum to this Agreement in the form attached as Exhibit B (which may be modified by the General Partner in its sole and unfettered discretion) and an addendum to the Amended Buy-Sell and Redemption Agreement. Upon admission of a Substitute Limited Partner, that Limited Partner shall be subject to all of the restrictions applicable to, shall assume all of the obligations of, and shall attain the status of a Limited Partner under and pursuant to this Agreement with respect to the Partnership Interest held by that Limited Partner.

(b) Admission of Successor General Partner. A successor General Partner selected pursuant to Section 5.2 or the transferee of or successor to all of the Partnership Interest of the General Partner pursuant to Section 4.3(b) shall be admitted to the Partnership as the General Partner, effective as of the date of the withdrawal or removal of the predecessor General Partner or the date of Transfer of that predecessor's Partnership Interest.

(c) Action by General Partner. In connection with the admission of any substitute Limited Partner or successor General Partner or any additional Limited Partner, the General Partner shall have the authority to take all such actions as it deems necessary or advisable in connection therewith, including the amendment of Exhibit A and the execution and filing with appropriate authorities of any necessary documentation.

4.7 **Business Opportunities.**

(a) In the event that the Partnership recapitalizes, distributes or otherwise transfers any of its business units, business interests or assets to a new entity that will be primarily owned by one or more members of the Founding Partner Group, each of the Limited Partners shall receive a proportionate share of that entity, subject to identical terms and conditions as are provided to the members of the Founding Partner Group, unless that Limited Partner agrees to receive a different percentage interest in that entity; *provided, however*, this Section 4.7(a) shall not apply to any disproportionate distribution made to a member of the Founding Partner Group as long as such disproportionate distribution does not exceed ten percent (10%) of Partnership Capital.

(b) In the event that one or more members of the Founding Partner Group establishes a new business venture (i) whose business operations will be substantially related to, or otherwise operated substantially in connection with, the Partnership, or (ii) that James D. Dondero and/or Mark K. Okada directly or indirectly control and that is an entity whose business operations are substantially related to, or otherwise operated substantially in connection with, the Partnership, the members of the Founding Partner Group agree to use their reasonable best efforts to ensure that (a) the total ownership interest of the members of the Founding Partner Group in that entity shall not exceed their total percentage ownership interest in the Partnership; and (b) each of the Non-Founding Limited Partners shall be permitted to acquire an ownership interest in that entity, subject to identical terms and conditions as the members of the Founding Partner Group; *provided, however*, the members of the Founding Partner Group may elect to limit the amount of such ownership interest for any particular Non-Founding Limited Partner. With regard to investments referenced in clause (b) of the preceding sentence, if a Limited Partner declines to make an investment in a new business entity, the members of the Founding Partner Group shall allocate the opportunity to make that investment to one or more of the remaining Limited Partners (including James D. Dondero and Mark K. Okada).

ARTICLE 5

DISSOLUTION AND WINDING UP

5.1 **Dissolution.** The Partnership shall be dissolved upon:

(a) The withdrawal, bankruptcy, or dissolution of the General Partner, or any other event that results in its ceasing to be the General Partner (other than by reason of a Transfer pursuant to Section 4.3(b));

(b) An election to dissolve the Partnership by the General Partner that is approved by the affirmative vote of a Majority Interest; *provided, however*, the General Partner may dissolve the Partnership without the approval of the Limited Partners in order to comply with Section 14 of the Amended Buy-Sell and Redemption Agreement;

(c) Any other event that, under the Delaware Act, would cause its dissolution; or

(d) A sale of all or substantially all of the assets of the Partnership that results in the liquidation of operating assets, the material shrinking of operations and personnel and the failure to redeploy the proceeds within twelve (12) months into other activities and investments.

For purposes of this Section 5.1, the bankruptcy of the General Partner shall be deemed to have occurred when the General Partner: (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary bankruptcy petition; (iii) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceeding: (iv) files a petition or answer seeking a reorganization,

arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition fled against the General Partner in a proceeding of the type described in clauses (i) through (iv) of this paragraph; (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the General Partner or of all or any substantial part of the General Partner's properties; or (vii) one hundred twenty (120) days expire after the date of the commencement of a proceeding against the General Partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law if the proceeding has not been previously dismissed, or ninety (90) days expire after the date of the appointment, without the General Partner's consent or acquiescence, of a trustee, receiver, or liquidator of the General Partner or of all or any substantial part of the General Partner's properties if the appointment has not previously been vacated or stayed, or ninety (90) days expire after the date of expiration of a stay, if the appointment has not previously been vacated.

5.2 Continuation of the Partnership. Upon the occurrence of an event described in Section 5.1(a), the Partnership shall be deemed to be dissolved and reconstituted if Limited Partners unanimously elect to continue the Partnership within ninety (90) days of that event. If no election to continue the Partnership is made within ninety (90) days of that event, the Partnership shall conduct only activities necessary to wind up its affairs. If an election to continue the Partnership is made upon the occurrence of an event described in Section 5.1(a), then:

(a) Within that ninety (90)-day period a successor General Partner shall be selected by seventy percent (70%) of the Percentage Interests owned by Limited Partners;

(b) The Partnership shall be deemed to be reconstituted and shall continue until the end of the term for which it is formed unless earlier dissolved in accordance with this Article 5;

(c) The interest of the former General Partner shall be converted to an interest as a Limited Partner; and

(d) All necessary steps shall be taken to amend or restate this Agreement and the Certificate of Limited Partnership, and the successor General Partner may for this purpose amend this Agreement and the Certificate of Limited Partnership, as appropriate, without the consent of any Partner.

5.3 Liquidation. Upon dissolution of the Partnership, unless the Partnership is continued under Section 5.2, the General Partner or, in the event the General Partner has been dissolved, becomes bankrupt (as defined in Section 5.1), or withdraws from the Partnership, a liquidator or liquidating committee selected by a Majority Interest, shall be the Liquidator. The Liquidator (if other than the General Partner) shall be entitled to receive such compensation for its services as may be approved by a Majority Interest. The Liquidator shall agree not to resign at any time without fifteen (15) days' prior written notice and (if other than the General Partner) may be removed at any time, with or without cause, by notice of removal approved by a Majority Interest. Upon dissolution, removal, or resignation of the Liquidator, a successor and substitute Liquidator (who shall have and succeed to all rights, powers, and duties of the original Liquidator) shall within thirty (30) days thereafter be selected by a Majority Interest. The right to appoint a successor or substitute Liquidator in the manner provided herein shall be recurring and continuing for so long as the functions and services of the Liquidator are authorized to continue under the provisions hereof, and every reference herein to the Liquidator shall be deemed to refer also to any such successor or substitute Liquidator appointed in the manner provided herein. Except as expressly provided in this Article 5, the Liquidator appointed in the manner provided herein shall have and may exercise, without further authorization or consent of any of the parties hereto, all of the powers conferred upon the General Partner under the terms of this Agreement (but subject to all of the applicable limitations, contractual and otherwise, upon the exercise of such powers) to the extent necessary or desirable in the good faith judgment of the Liquidator to carry out the duties and functions of the

Liquidator hereunder for and during such period of time as shall be reasonably required in the good faith judgment of the Liquidator to complete the winding up and liquidation of the Partnership as provided herein. The Liquidator shall liquidate the assets of the Partnership and apply and distribute the proceeds of such liquidation in the following order of priority, unless otherwise required by mandatory provisions of applicable law:

(a) To the payment of the expenses of the terminating transactions including, without limitation, brokerage commission, legal fees, accounting fees and closing costs;

(b) To the payment of creditors of the Partnership, including Partners, in order of priority provided by law;

(c) To the Partners and assignees to the extent of, and in proportion to, the positive balances in their respective Capital Accounts as provided in Treasury Regulations Section 1.704-1(b)(2)(ii)(b)(2); *provided, however,* the Liquidator may place in escrow a reserve of cash or other assets of the Partnership for contingent liabilities in an amount determined by the Liquidator to be appropriate for such purposes; and

(d) To the Partners in proportion to their respective Percentage Interests.

5.4 **Distribution in Kind.** Notwithstanding the provisions of Section 5.3 that require the liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if on dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners and assignees, the Liquidator may defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (other than those to Partners) and/or may distribute to the Partners and assignees, in lieu of cash, as tenants in common and in accordance with the provisions of Section 5.3, undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any joint operating agreements or other agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

5.5 **Cancellation of Certificate of Limited Partnership.** Upon the completion of the distribution of Partnership property as provided in Sections 5.3 and 5.4, the Partnership shall be terminated, and the Liquidator (or the General Partner and Limited Partners if necessary) shall cause the cancellation of the Certificate of Limited Partnership in the State of Delaware and of all qualifications and registrations of the Partnership as a foreign limited partnership in jurisdictions other than the State of Delaware and shall take such other actions as may be necessary to terminate the Partnership.

5.6 **Return of Capital.** The General Partner shall not be personally liable for the return of the Capital Contributions of Limited Partners, or any portion thereof, it being expressly understood that any such return shall be made solely from Partnership assets.

5.7 **Waiver of Partition.** Each Partner hereby waives any rights to partition of the Partnership property.

ARTICLE 6

GENERAL PROVISIONS

6.1 **Amendments to Agreement.** The General Partner may amend this Agreement without the consent of any Partner if the General Partner reasonably determines that such amendment is necessary and appropriate; *provided, however*, any action taken by the General Partner shall be subject to its fiduciary duties to the Limited Partners under the Delaware Act.

6.2 **Addresses and Notices.** Any notice, demand, request, or report required or permitted to be given or made to a Partner under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by United States registered or certified mail to the Partner at his/her/its address as shown on the records of the Partnership, regardless of any claim of any Person who may have an interest in any Partnership Interest by reason of an assignment or otherwise.

6.3 **Titles and Captions.** All article and section titles and captions in the Agreement are for convenience only, shall not be deemed part of this Agreement, and in no way shall define, limit, extend, or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles," "Sections" and "Exhibits" are to "Articles," "Sections" and "Exhibits" of this Agreement. All Exhibits hereto are incorporated herein by reference.

6.4 **Pronouns and Plurals.** Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns, pronouns, and verbs shall include the plural and vice versa.

6.5 **Further Action.** The parties shall execute all documents, provide all information, and take or refrain from taking all actions as may be necessary or appropriate to achieve the purposes of this Agreement.

6.6 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives, and permitted assigns.

6.7 **Integration.** This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

6.8 **Creditors.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Partnership.

6.9 **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement, or condition.

6.10 **Counterparts.** This agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

6.11 **Applicable Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law.

6.12 Invalidity of Provisions. If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, in whole or in part, then the parties shall be relieved of all obligations arising under that provision, but only to the extent that it is illegal, unenforceable, or void, it being the intent and agreement of the parties that this Agreement shall be deemed amended by modifying that provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting therefor another provision that is legal and enforceable and achieves the same objectives.

Remainder of Page Intentionally Left Blank.
Signature Page Follows.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date and year first written above to be effective as of February 29, 2004.

GENERAL PARTNER:

STRAND ADVISORS, INC.,
a Delaware corporation

By: _____
James D. Dondero,
President

LIMITED PARTNERS:

_____
BRADFORD BORUD

CANIS MINOR TRUST

By: _____
James D. Dondero,
Trustee

_____
PATRICK DAUGHERTY

_____
DAVIS DEADMAN

_____
JAMES D. DONDERO

_____
R. JOSEPH DOUGHERTY

Signatures Continued on Next Page.

THE GET GOOD TRUST

By: _____
Grant Scott,
Trustee

THE GET BETTER TRUST

By: _____
James D. Dondero,
Trustee

_____
PAUL KAUFFMAN

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #2

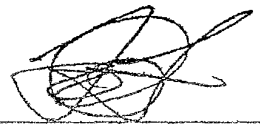
By: _____
Lawrence Tonomura,
Trustee

_____
JOHN MORGAN

_____
MARK K. OKADA

_____
KURTIS PLUMER

Signatures Continued on Next Page.



TODD A. TRAVERS



DAVID WALLS

JOHN YANG

End of Signatures.

TODD A. TRAVERS

DAVID WALLS

JOHN YANG

End of Signatures.

THE GET GOOD TRUST

By: _____
Grant Scott,
Trustee

THE GET BETTER TRUST

By: _____
James D. Dondero,
Trustee

_____
PAUL KAUFFMAN

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #2

By: _____
Lawrence Tonomura,
Trustee

_____
JOHN MORGAN

_____
MARK K. OKADA

_____
KURTIS PLUMER

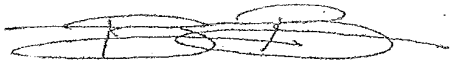
Signatures Continued on Next Page.

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:



BRADFORD BORUD

SPOUSE OF PARTNER:

ALTHEA BORUD

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

_____
BRADFORD BORUD

SPOUSE OF PARTNER:

Althea Borud
ALTHEA BORUD

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

DAVIS DEADMAN

SPOUSE OF PARTNER:

N/A

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

JAMES D. DONDERO

SPOUSE OF PARTNER:

N/A

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

R. JOSEPH DOUGHERTY

SPOUSE OF PARTNER:

N/A

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

PAUL KAUFFMAN

SPOUSE OF PARTNER:

AMY KAUFFMAN

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

PAUL KAUFFMAN

SPOUSE OF PARTNER:

AMY KAUFFMAN

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

JOHN MORGAN

SPOUSE OF PARTNER:

DEBRA MORGAN

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

JOHN MORGAN

SPOUSE OF PARTNER:

DEBRA MORGAN

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

MARK K. OKADA

SPOUSE OF PARTNER:

PAMELA OKADA

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

MARK K. OKADA

SPOUSE OF PARTNER:

PAMELA OKADA

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

KURTIS PLUMER

SPOUSE OF PARTNER:

KRISTI PLUMER

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

KURTIS PLUMER

SPOUSE OF PARTNER:

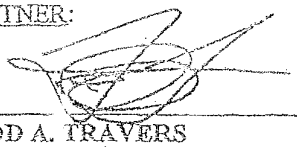
KRISTI PLUMER

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:



TODD A. TRAVERS

SPOUSE OF PARTNER:

KIMBERLY TRAVERS

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

TODD A. TRAVERS

SPOUSE OF PARTNER:

KIMBERLY TRAVERS

D-DAL_1266754_8 (2).DOC

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

DAVID WALLS

SPOUSE OF PARTNER:

CARI WALLS

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

DAVID WALLS

SPOUSE OF PARTNER:

CARI WALLS

D-DAL_1266754_8 (2).DOC

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

JOHN YANG

SPOUSE OF PARTNER:

JOYCE YANG

SPOUSE'S AGREEMENT

Reference is made to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

PATRICK DAUGHERTY

SPOUSE OF PARTNER:

KIMBERLY DAUGHERTY

EXHIBIT A

Partnership Percentage Interests

GENERAL PARTNER:	Percentage Interest
Strand Advisors, Inc.	0.95665%
LIMITED PARTNERS:	
Bradford Borud	0.303%
Canis Minor Trust	9.5665%
Patrick Daugherty	0.608%
Davis Deadman	0.544%
James D. Dondero	4.78325%
R. Joseph Dougherty	0.549%
The Get Good Trust	11.4798%
The Get Better Trust	44.96255%
Paul Kauffman	0.390%
The Mark and Pamela Okada Family Trust-Exempt #1	6.69655%
The Mark and Pamela Okada Family Trust-Exempt #2	2.86995%
John Morgan	0.281%
Mark K. Okada	14.34975%
Kurtis Plumer	0.426%
Todd A. Travers	0.624%
David Walls	0.203%
John Yang	0.407%
TOTAL	100.0%

EXHIBIT B

ADDENDUM
TO THE
SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP
OF
HIGHLAND CAPITAL MANAGEMENT, L.P.

THIS ADDENDUM (this "*Addendum*") to that certain Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 31, 2004, to be effective as of February 29, 2004, as amended from time to time (the "*Agreement*"), is made and entered into as of the ____ day of _____, 20___, by and between Strand Advisors, Inc., as the sole General Partner (the "*General Partner*") of Highland Capital Management, L.P. (the "*Partnership*") and _____ ("_____") (except as otherwise provided herein, all capitalized terms used herein shall have the meanings set forth in the Agreement).

RECITALS:

WHEREAS, the General Partner, in its sole and unfettered discretion, and without the consent of any Limited Partner, has the authority under (i) Section 4.4 of the Agreement to admit Additional Limited Partners, (ii) Section 4.6 of the Agreement to admit Substitute Limited Partners and (iii) Section 6.1 of the Agreement to amend the Agreement;

WHEREAS, the General Partner desires to admit _____ as a Limited Partner holding a _____% Percentage Interest in the Partnership as of the date hereof;

WHEREAS, _____ desires to become a Limited Partner and be bound by the terms and conditions of the Agreement; and

WHEREAS, the General Partner desires to amend the Agreement to add _____ as a party thereto.

AGREEMENT:

RESOLVED, as a condition to receiving a Partnership Interest in the Partnership, _____ _____ acknowledges and agrees that he/she/it (i) has received and read a copy of the Agreement, (ii) shall be bound by the terms and conditions of the Agreement; and (iii) shall promptly execute an addendum to the Amended Buy-Sell and Redemption Agreement; and be it

FURTHER RESOLVED, the General Partner hereby amends the Agreement to add _____ as a Limited Partner, and the General Partner shall attached this Addendum to the Agreement and make it a part thereof; and be it

FURTHER RESOLVED, this Addendum may be executed in any number of counterparts, all of which together shall constitute one Addendum binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the day and year above written.

GENERAL PARTNER:

STRAND ADVISORS, INC.

By: _____
Name: _____
Title: _____

NEW LIMITED PARTNER:

[_____]

AGREED AND ACCEPTED:

In consideration of the terms of this Addendum and the Agreement, in consideration of the Partnership's allowing the above signed Person to become a Limited Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms and conditions of the Agreement as though a party thereto.

SPOUSE OF NEW LIMITED PARTNER:

[_____]

EXHIBIT C

Maximum Available Loan Amounts to Profits Interest Partners Pursuant to Section 4.1(e)(v)

Profits Interest Partner:	Maximum Loan Amount
Bradford Borud	
Patrick Daugherty	
Davis Deadman	
R. Joseph Dougherty	
Paul Kauffman	
John Morgan	
Kurtis Plumer	
Todd A. Travers	
David Walls	
John Yang	

THE GET GOOD TRUST

By: _____
Grant Scott,
Trustee

THE GET BETTER TRUST

By: _____
James D. Dondero,
Trustee

_____
PAUL KAUFFMAN

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #2

By: _____
Lawrence Tonomura,
Trustee

_____
JOHN MORGAN

_____
MARK K. OKADA

_____
KURTIS PLUMER

Signatures Continued on Next Page.

THE GET GOOD TRUST

By: _____
Grant Scott,
Trustee

THE GET BETTER TRUST

By: _____
James D. Dondero,
Trustee

_____
PAUL KAUFFMAN

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #2

By: _____
Lawrence Tonomura,
Trustee

_____
JOHN MORGAN

_____
MARK K. OKADA

_____
KURTIS PLUMER

Signatures Continued on Next Page.

THE GET GOOD TRUST

By: _____
Grant Scott,
Trustee

THE GET BETTER TRUST

By: _____
James D. Dondero,
Trustee

_____
PAUL KAUFFMAN

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #2

By: _____
Lawrence Tonomura,
Trustee

_____
JOHN MORGAN

_____
MARK K. OKADA

_____
KURTIS PLUMER

Signatures Continued on Next Page.

THE GET GOOD TRUST

By: _____
Grant Scott,
Trustee

THE GET BETTER TRUST

By: _____
James D. Dondero,
Trustee

_____
PAUL KAUFFMAN

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #2

By: _____
Lawrence Tonomura,
Trustee

_____
JOHN MORGAN

_____
MARK K. OKADA

_____
KURTIS PLUMER

Signatures Continued on Next Page.

THE GET GOOD TRUST

By: _____
Grant Scott,
Trustee

THE GET BETTER TRUST

By: _____
James D. Dondero,
Trustee

_____
PAUL KAUFFMAN

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST-EXEMPT #2

By: _____
Lawrence Tonomura,
Trustee

_____
JOHN MORGAN

_____
MARK K. OKADA

_____
KURTIS PLUMER

Signatures Continued on Next Page.

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2

By: _____
Lawrence Tonomura,
Trustee

AMENDED AND RESTATED

BUY-SELL AND REDEMPTION AGREEMENT

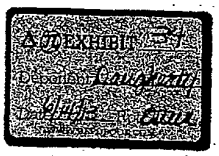
Among

Highland Capital Management, L.P.

And Its

Limited Partners

December 31, 2004





AMENDED AND RESTATED

BUY-SELL AND REDEMPTION AGREEMENT

TABLE OF CONTENTS

		Page
Section 1.	Definitions	1
Section 2.	Restrictions Against Transfer	5
Section 3.	Joinder of Permitted Transferees	5
Section 4.	Obligations Arising Upon the Death, Disability, or Termination of Employment of a Founding Limited Partner	5
Section 5.	Disposition Upon Bankruptcy of a Member of a Founding Limited Partner Group	5
Section 6.	Disposition Upon a Community Property Event	5
Section 7.	Disposition Upon a Trigger Event with Respect to a Non-Founding Limited Partner	5
Section 8.	Termination of a Non-Founding Limited Partner for Cause	5
Section 9.	Obligation of Spouses of Limited Partners	5
Section 10.	Determination of Agreed Value of the Partnership	5
Section 11.	Purchase Price of Partnership Interests	5
Section 12.	Assignment of Partnership Interests	5
Section 13.	Life Insurance on the Life of a Founding Limited Partner	5
Section 14.	Payment of Purchase Price to the Departing Founding Limited Partner Group Upon the Death of a Founding Limited Partner	5
Section 15.	Confidentiality, Non-Competition, Non-Solicitation, and Non-Recruitment	5
Section 16.	Termination	5
Section 17.	Legend on Certificates	5
Section 18.	Miscellaneous	5

Attachments:
Exhibit A – Limited Partnership Interests In Highland Capital Management, L.P.
Exhibit B – Addendum To Buy-Sell And Redemption Agreement
Exhibit C – Statement Of Agreed Value
Exhibit D – Form Of Dondero Insurance Rabbi Trust Agreement
Exhibit E – Form Of Okada Insurance Rabbi Trust Agreement
Exhibit F – Form Of Promissory Note
Exhibit G – Form Of Promissory Note
Exhibit H – Continuing Guaranty
Exhibit I – Partnership Interest Pledge Agreement
Exhibit J – Notice Information
Exhibit K – Form of Assignment of Interest

AMENDED AND RESTATED

BUY-SELL AND REDEMPTION AGREEMENT

OF

HIGHLAND CAPITAL MANAGEMENT, L.P.

THIS AMENDED AND RESTATED BUY-SELL AND REDEMPTION AGREEMENT (this "*Agreement*"), is made and entered into as of the 31st day of December, 2004, to be effective as of February 29, 2004, by and among Highland Capital Management, L.P., a Delaware limited partnership (the "*Partnership*"), James D. Dondero, an individual ("*Dondero*"), Mark K. Okada, an individual ("*Okada*"), the Persons listed on Exhibit A who are limited partners of the Partnership, and any Person who later becomes a limited partner of the Partnership and who becomes a party to this Agreement by executing and delivering to the Partnership an Addendum to this Agreement in the form attached as Exhibit B (collectively, the "*Limited Partners*"), and joined in by Strand Advisors, Inc., a Delaware corporation and the sole general partner of the Partnership (the "*General Partner*").

RECITALS:

WHEREAS, on May 27, 2004, the Partnership, Dondero, Okada and their Affiliated Limited Partners entered into the original Buy-Sell and Redemption Agreement (the "*Original Buy-Sell and Redemption Agreement*"); and

WHEREAS, the Limited Partners desire to amend the Original Buy-Sell and Redemption Agreement to (i) include new Limited Partners as a party to this Agreement and (ii) to make certain other changes; and

WHEREAS, the Limited Partners and any Person who later becomes a party to this Agreement shall be bound by the terms and conditions of this Agreement; and

WHEREAS, the Partnership and the General Partner join in the execution and delivery of this Agreement for the purpose of acknowledging their rights and obligations hereunder;

NOW, THEREFORE, in consideration of the premises, and the mutual covenants, agreements and conditions contained in this Agreement, the parties hereto agree as follows:

Section 1: **Definitions.** As used in this Agreement, the following terms have the meanings assigned to them in this Section 1:

"*Affiliate*" means any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question. As used in this definition, the term "*control*" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"*Affiliate Employer*" means any Affiliate of the Partnership which is the employer of a Non-Founding Limited Partner.

"*Affiliated Limited Partner*" means: (i) with respect to Dondero: (A) The Get Good Trust, (B) The Get Better Trust, (C) the Canis Minor Trust, (D) any other Person that becomes a Limited Partner in the Partnership and is either (1) a descendant of Dondero or a trust primarily for the benefit of a descendant of Dondero or (2) designated by Dondero as an Affiliated Limited Partner of Dondero in a written notice to the General Partner, and (E) the estate, heirs and beneficiaries of Dondero who acquire a Partnership Interest upon Dondero's death; and (ii) with respect to Okada: (A) The Mark and Pamela Okada Family Trust – Exempt Trust #1, (B) The Mark and Pamela Okada Family Trust – Exempt Trust #2, (C) any other Person that becomes a Limited Partner in the Partnership and is either (1) a descendant of Okada or a trust primarily for the benefit of a descendant of Okada or (2) designated by Okada as an Affiliated Limited Partner of Okada in a written notice to the General Partner, and (D) the estate, heirs and beneficiaries of Okada who acquire a Partnership Interest upon Okada's death.

"*Agreed Value*" means $200,000,000 as of the date hereof, and as determined as of January 1 of each calendar year according to the terms and conditions set forth in Section 10. The parties hereto acknowledge that the Agreed Value of the Partnership on February 29, 2004, was $125,000,000 and on May 27, 2004 and continuing through the date hereof is $200,000,000.

"*Agreement*" has the meaning set forth in the introductory paragraph of this Agreement.

"*Applicable Entities*" means the Partnership and its Affiliates.

"*Available BR Interest*" has the meaning set forth in Section 5(b).

"*Available NFLP Interest*" has the meaning set forth in Section 7(b).

"*Available Spouse's Interest*" has the meaning set forth in Section 6(c).

"*Bankrupt Partner*" has the meaning set forth in Section 5(a).

"*Bankruptcy*" means, for any Partner, that Partner's taking or acquiescing in the taking of an action seeking relief under, or advantage of, any applicable debtor relief, liquidation, receivership, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization, or similar law affecting the rights or remedies of creditors generally, as in effect from time to time.

"*Bankruptcy Notice*" has the meaning set forth in Section 5(a).

"*Bankrupt Partner's Interest*" has the meaning set forth in Section 5(a).

"*Cause*" means conduct by the Partner, in his capacity as a Partner or an employee of an Affiliate Employer amounting to (i) the Partner's conviction or plea of *nolo contendere* for any criminal offense or commission by the Partner of any act that the Partnership or Affiliate Employer considers damaging to or tending to discredit any of the Applicable Entities; (ii) dishonesty, fraud, willful misconduct, unlawful discrimination, breach of contract, bad faith or theft on the part of the Partner that is injurious to any of the Applicable Entities; (iii) the Partner's using for his or her own benefit any confidential or proprietary information of any of the Applicable Entities, or willfully or negligently divulging any such information to third parties without the prior written consent of the Partnership or Affiliate Employer; (iv) a breach or violation of the terms of this Agreement or other agreement to which the Partner and any of the Applicable Entities are party in any manner that adversely affects any of the Applicable Entities; (v) the failure or refusal of the Partner to follow the lawful directives of the Partnership or Affiliate Employer (unless due to sickness, injury, or disabilities, but excluding self-inflicted injuries, drug usage in violation with Affiliate Employer's policy or addiction to alcohol or other substances hazardous to health); (vi) gross inattention to duty or any other willful, reckless or negligent

act (or omission to act) by the Partner, which, in the good faith judgment of the Partnership or Affiliate Employer, injures any of the Applicable Entities; (vii) a breach of fiduciary duties; (viii) the Partner's commission or participation in any illegal act in the course of his/her employment with the Partnership or Affiliate Employer, including violation of any statute or regulation; or (ix) the Partner's second commission of an act, of which Partner is given written notice, that is determined in good faith by (A) James D. Dondero, with regard to any event involving James D. Dondero, or (B) both James D. Dondero and Mark K. Okada for an event involving Mark K. Okada or any other employee of an Applicable Entity, to constitute disrespect or unacceptably irreverent or inappropriate behavior to James D. Dondero, Mark K. Okada or any other employee of an Applicable Entity. Any determination of whether a Partner should be terminated for Cause pursuant to this Agreement shall be made in the reasonable discretion of the Partnership, shall be made in good faith and shall be binding upon all parties affected thereby.

"*Change in Control*" means either (i) a change in the ownership of the Partnership, such that the following Persons (either singularly or collectively) fail to retain, directly or indirectly, majority control of the Partnership: James D. Dondero, Mark K. Okada or their affiliated, family or charitable trusts, employees, former employees, and any long-term incentive plans; or (ii) a sale of all or substantially all of the assets of the Partnership. For clarification, the death or retirement of either or both James D. Dondero or Mark K. Okada shall not, in and of itself, constitute a Change in Control.

"*Code*" means the Internal Revenue Code of 1986, as amended.

"*Community Property Event*" means, with respect to any Limited Partner that is an individual, (i) the filing of a divorce or annulment proceeding by or against that Limited Partner if that Limited Partner's spouse has a community property interest in that Limited Partner's Partnership Interest, but only to the extent that spouse's community property interest in that Limited Partner's Partnership Interest does not Transfer to that Limited Partner pursuant to the divorce or annulment proceeding; or (ii) the death of a Limited Partner's spouse (if predeceasing that Limited Partner) if that Limited Partner's spouse has a community property interest in that Limited Partner's Partnership Interest, but only to the extent that the deceased spouse's community property interest in that Limited Partner's Partnership Interest does not Transfer to either (A) that Limited Partner or (B) a trust in which that Limited Partner is a trustee or beneficiary.

"*Company*" means Highland Capital Management Services, Inc., a Delaware corporation, and its successors and assigns.

"*Competing Business*" means any business conducted by any of the Applicable Entities at the time the Non-Founding Limited Partner ceases (for whatever reason) to be a Partner or an employee of any Affiliate Employer.

"*Confidential Information*" includes, but is not limited to:

(i) Information concerning customers, clients, marketing, business and operational methods of any of the Applicable Entities and their customers or clients, contracts, financial or other data, technical data, e-mail and other correspondence or any other confidential or proprietary information possessed, owned or used by any of the Applicable Entities;

(ii) Business, pricing and management methods and information;

(iii) Finances, strategies, systems, research, plans, reports, recommendations and conclusions;

(iv) Tear sheets, industry comparative analysis and Collateralized Loan Obligation (CLO) and other structured products;

(v) Names, arrangements with, or other information relating to, any of the Applicable Entities' customers, clients, suppliers, financiers, owners, representatives and other Persons who have business relationships with any of the Applicable Entities or who are prospects for business relationships with any of the Applicable Entities; and

(vi) Any matter or thing obtained or ascertained by Partner through the Partner's association with any of the Applicable Entities, the use or disclosure of which might reasonably be construed to be contrary to the best interests of any of the Applicable Entities, their owners or employees.

"*CP Event Notice*" has the meaning set forth in Section 6(a).

"*Departing Founding Limited Partner Group*" has the meaning set forth in Section 4.

"*Determination Event*" means (i) the death, Disability or termination of employment from the Partnership or Affiliate Employer of a Founding Limited Partner; (ii) the occurrence of a Community Property Event; (iii) the Bankruptcy of a member of a Founding Limited Partner Group; or (iv) a Trigger Event with respect to a Non-Founding Limited Partner.

"*Determined Value*" mean an amount equal to the lesser of (i) the current Agreed Value of the Partnership in effect as of the date of the Determination Event (the "*Current Agreed Value*") or (ii) the first Agreed Value of the Partnership determined after the Determination Event.

"*Disability*" means disability as defined by the terms of Highland Capital Management Services, Inc.'s ("*Services*") long-term disability plan as in effect at the determination of such Disability but will not include disabilities related to fatigue or stress. If, at any time during the term of this Agreement, the Company does not maintain a long-term disability plan, Disability shall mean a physical or mental condition which, in the judgment of the Company, permanently prevents the Participant from performing the essential functions of his position with the Affiliate or Company, with or without reasonable accommodation, or such other position or job that the Affiliate or Company makes available to him that is of similar status, similar compensation and similar responsibility and for which the Participant is qualified by reason of his education, training and experience. In making its determination, Company may, but is not required to, rely on advice of a physician competent in the area to which such Disability relates. The Company may make the determination in its sole discretion, and any decision of the Company will be binding on all parties.

"*Discount Factor*" has the meaning set forth in Section 11(c).

"*Dondero*" has the meaning set forth in the introductory paragraph of this Agreement.

"*FLPG*" has the meaning set forth in Section 5(a).

"*Founding Limited Partner*" means either Dondero or Okada.

"*Founding Limited Partner Group*" means any Founding Limited Partner together with all the Affiliated Limited Partners of that Founding Limited Partner.

"*Founding Limited Partner Insurance Trust*" means a rabbi trust designated as a beneficiary of the insurance policies on a Founding Limited Partner's life, as further described in Section 13.

"*General Partner*" has the meaning set forth in the introductory paragraph of this Agreement.

"*Limited Partners*" has the meaning set forth in the introductory paragraph of this Agreement.

"*NFLP*" has the meaning set forth in Section 7(a).

"*NFLP's Interest*" has the meaning set forth in Section 7(a).

"*Non-Compete Article*" has the meaning set forth in Section 15(i).

"*Non-Competition Period*" has the meaning set forth in Section 15(d).

"*Non-FLPG Partners*" has the meaning set forth in Section 5(a).

"*Non-Founding Limited Partner*" means any natural person who is a Limited Partner other than a Founding Limited Partner.

"*Objector*" has the meaning set forth in Section 14(f).

"*Okada*" has the meaning set forth in the introductory paragraph of this Agreement.

"*Other Limited Partners*" has the meaning set forth in Section 7(a).

"*Partner*" means any Person who is a Limited Partner or a General Partner.

"*Partnership*" has the meaning set forth in the introductory paragraph of this Agreement.

"*Partnership Agreement*" has the meaning set forth in Section 2.

"*Partnership Interest*" means the interest held by that Limited Partner in the Partnership.

"*Partnership Note*" has the meaning set forth in Section 14(d).

"*Percentage Interest*" means, with respect to any Limited Partner, the percentage set forth opposite that Limited Partner's name on Exhibit A, as that percentages may be amended from time to time in accordance with this Agreement and the Partnership Agreement.

"*Person*" means an individual or a corporation, limited liability company, partnership, trust, estate, unincorporated organization, association, or other entity.

"*Purchase Price*" has the meaning set forth in Section 11.

"*Remaining BR Interest*" has the meaning set forth in Section 5(c).

"*Specialized Training*" includes, but is not limited to:

(i) Training the Partnership provides to its Non-Founding Limited Partners that is unique to its business and enhances the Non-Founding Limited Partner's ability to perform the Non-Founding Limited Partner's job duties effectively, including disclosure and access to Confidential Information; and

(ii) Orientation training, sales methods/techniques training, operation methods training, and computer and systems training.

"*Spouse's Interest*" has the meaning set forth in Section 6(a).

"*Subject Limited Partner*" has the meaning set forth in Section 6(a).

"*Surviving Founding Limited Partner Group*" shall mean, after the death of a Founding Limited Partner, the living Founding Limited Partner and the Affiliated Limited Partners of that living Founding Limited Partner.

"*Trigger Event*" means, with respect to any Non-Founding Limited Partner, (i) the Bankruptcy of that Non-Founding Limited Partner; (ii) the voluntary resignation or retirement of that Non-Founding Limited Partner from the Partnership or employment of any Affiliate Employer; (iii) the death of that Non-Founding Limited Partner; (iv) the Disability of that Non-Founding Limited Partner; (v) the termination of that Non-Founding Limited Partner's employment with the Partnership or from any Affiliate Employer without Cause; (vi) the termination of this Agreement pursuant to Section 16; or (vii) a Change of Control. Each Non-Founding Limited Partner agrees to give the Partnership ten (10) days' written notice of his Bankruptcy. Upon a Trigger Event, the Partnership Interest subject to purchase pursuant to the terms of this Agreement shall include any Partnership Interest held by a trust that was a permitted transferee upon a Community Property Event.

"*Trigger Event Notice*" has the meaning set forth in Section 7(a).

"*Transfer*" means shall mean the sale, transfer, conveyance, assignment, pledge, hypothecation, mortgage or other encumbrance or voluntary or involuntary disposition of all or any part of a Partnership Interest.

"*Unrelated Limited Partners*" has the meaning set forth in Section 6(a).

Section 2. Restrictions Against Transfer.

(a) Each Limited Partner agrees that he/she/it will not Transfer any of his/her/its Partnership Interest, or any right or interest therein, except as provided by (i) this Agreement and (ii) that certain Second Amended and Restated Limited Partnership Agreement of the Partnership, dated December 31, 2004, to be effective as of February 29, 2004 (as that may be amended from time to time, the "*Partnership Agreement*").

(b) The General Partner, in its sole and unfettered discretion, will generally only consent to a Transfer if:

(i) Such Transfer, when added to the total of all other Transfers of Partnership Interests within the preceding twelve (12) months, would not result in the Partnership being considered to have terminated within the meaning of Code Section 708;

(ii) Such Transfer would not violate the Securities Act of 1933, as amended, or any state securities or "Blue Sky" laws applicable to the Partnership or the Partnership Interest to be Transferred;

(iii) Such Transfer would not cause the Partnership to lose its status as a partnership for federal income tax purposes or cause the Partnership to become subject to the Investment Company Act of 1940, as amended;

(iv) Such Transfer would not cause the Partnership to be treated as a "publicly traded partnership" within the meaning of Code Section 7704 and the Treasury Regulations promulgated thereunder and would not make the Partnership ineligible for a "safe harbor" exemption from treatment as a publicly traded partnership under Code Section 7704 and the Treasury Regulations promulgated thereunder.

Section 3. Joinder of Permitted Transferees. Any Person who is a permitted transferee of a Partnership Interest pursuant to the terms of the Partnership Agreement and this Agreement that is not, at the time of the Transfer, subject to the terms of this Agreement, shall execute an Addendum to this Agreement in the form attached as Exhibit B and an addendum to the Partnership Agreement as set forth therein. Upon execution of an addendum to this Agreement, that Person's name and Percentage Interest shall be added to the table attached on Exhibit A and that Person shall be thereafter eligible for the benefits of, and bound by the terms and conditions of, this Agreement. The failure of a newly designated Affiliated Limited Partner to execute an addendum to this Agreement shall not affect the rights of that Affiliated Limited Partner under this Agreement or the obligations of the Partnership under this Agreement.

Section 4. Obligations Arising Upon the Death, Disability or Termination of Employment of a Founding Limited Partner.

(a) Mandatory Redemption. Upon the death, Disability or termination of employment with the Partnership or any Affiliate Employer (for any reason whatsoever) of the first Founding Limited Partner to die, become Disabled or whose employment with the Partnership or any Affiliate Employer terminates (that Founding Limited Partner, together with all of his Affiliated Limited Partners, being referred to collectively herein as the "***Departing Founding Limited Partner Group***"), the Partnership shall purchase, and each member of the Departing Founding Limited Partner Group shall sell to the Partnership, all, but not less than all, of each member of the Departing Founding Limited Partner Group's Partnership Interest pursuant to the terms and conditions of this Agreement.

(b) Payment Terms. The Purchase Price for the Partnership Interest to be purchased pursuant to this Section 4 shall be determined in accordance with Section 11(a). The terms and conditions of the purchase of Partnership Interests made pursuant to this Section 4 are as follows:

(i) For Partnership Interests held by the Departing Founding Limited Partner Group upon the death of a Founding Limited Partner, such purchase shall be made in accordance with Section 14.

(ii) For Partnership Interests held by the Departing Founding Limited Partner Group upon the Disability or termination of employment with the Partnership or any Affiliate Employer of a Founding Limited Partner, such purchase shall occur upon the later of (i) thirty (30) days after the Determination Event or (ii) twenty (20) days after the final determination of the Agreed Value of the Partnership as set forth in Section 10. The Partnership may, in its sole and unfettered discretion, pay for the Partnership Interests either (A) in readily available funds, or (B) with a promissory note, the form of which is attached as Exhibit F.

Section 5. Disposition Upon Bankruptcy of a Member of a Founding Limited Partner Group.

(a) Option. Upon the Bankruptcy of any member of a Founding Limited Partner Group (the "*Bankrupt Partner*"), the Bankrupt Partner or his/her/its legal representative shall give notice within ten (10) days of that event to the Partnership. Within five (5) days after the Partnership has the Determined Value, the Partnership shall send a written notice to the Partners regarding the sale of the Bankrupt Partner's Partnership Interest pursuant to the terms of this Section 5 (the "*Bankruptcy Notice*"). The Bankrupt Partner and the Bankrupt Partner's legal representative shall be deemed to have granted (i) first, to the other members of the Founding Limited Partner Group in which that Bankrupt Partner is a member (the "*FLPG*"); (ii) second, to the Limited Partners other than the FLPG (the "*Non-FLPG Partners*"); and (iii) third, to the Partnership an option to purchase any and all interest with respect to the Bankrupt Partner's Partnership Interest (the "*Bankrupt Partner's Interest*") upon the terms set forth in this Section 5.

(b) Election to Exercise by FLPG. Within fifteen (15) days after the Bankruptcy Notice, each member of the FLPG shall notify the Partnership of its desire to purchase its pro rata portion of the Bankrupt Partner's Interest. If any member of the FLPG elects to purchase none, or less than all, of his/her/its pro rata part of the Bankrupt Partner's Interest (the remaining Bankrupt Partner's Interest which the members of the FLPG elect not to purchase being called the "*Available BR Interest*"), the Partnership shall, within twenty (20) days after receipt of the Bankruptcy Notice, notify the members of the FLPG of that Available BR Interest, and each of the members of the FLPG may elect, by notifying the Partnership in writing within twenty-five (25) days after receipt of the Bankruptcy Notice, to purchase that Available BR Interest in the proportion which the Partnership Interest owned by that member of the FLPG bears to the aggregate Partnership Interest owned by all members of the FLPG who similarly elect to purchase that Available BR Interest.

(c) Election to Exercise by Non-FLPG Partners. The Partnership shall, within thirty (30) days after receipt of the Bankruptcy Notice, notify the Non-FLPG Partners that the members of the FLPG will exercise their option for none, or less than all, of the Bankrupt Partner's Interest. Each Non-FLPG Partner shall have until the thirty-fifth (35th) day following the Bankruptcy Notice within which to notify the Partnership whether that Non-FLPG Partner desires to purchase his/her/its pro rata portion of the remaining Bankrupt Partner's Interest. If any Non-FLPG Partner elects to purchase none, or less than all, of his/her/its pro rata part of the remaining Bankrupt Partner's Interest (the remaining Bankrupt Partner's Interest which that Non-FLPG Partner elects not to purchase being called the "*Remaining BR Interest*"), the Partnership shall, within forty (40) days after receipt of the Bankruptcy Notice, notify the other Non-FLPG Partners of that Remaining BR Interest, and each Non-FLPG Partner may elect, by notifying the Partnership in writing within forty-five (45) days after receipt of the Bankruptcy Notice, to purchase that Remaining BR Interest in the proportion which the Partnership Interest owned by that Non-FLPG Partner bears to the aggregate Partnership Interest owned by all other Non-FLPG Partners who similarly elect to purchase that Remaining BR Interest.

(d) Mandatory Purchase by the Partnership. If the FLPG and the Non-FLPG Partners notify the Partnership that they will exercise their option for none, or less than all, of the Bankrupt Partner's Interest, the Partnership shall be obligated to purchase any remaining portion of the Bankrupt Partner's Interest that is not acquired by the FLPG or the Non-FLPG Partners.

(e) Manner of Exercise. Upon determination of the portion of the Bankrupt Partner's Interest to be purchased by the Limited Partners or the Partnership, the Partnership, on its behalf and/or on behalf of the Limited Partners who are purchasing the Bankrupt Partner's Interest, shall give notice of exercise to the Bankrupt Partner and his/her/its legal representative within fifty (50) days after receipt of the Bankruptcy Notice. Any Limited Partner notifying the Partnership of his intention to

acquire all or any portion of the Bankrupt Partner's Interest shall be required to purchase the same.

(f) Payment Terms. The closing of the purchase of all or any portion of the Bankrupt Partner's Interest pursuant to this Section 8 shall occur on or before the seventieth (70th) day after receipt of the Bankruptcy Notice. The Purchase Price for that Bankrupt Partner's Interest shall be determined in accordance with Section 11(c). The purchasers of the Bankrupt Partner's Interest may, at their sole and unfettered discretion, pay for that Bankrupt Partner's Interest either (i) in readily available funds, or (ii) with a promissory note, the form of which is attached as Exhibit F.

(g) Interest Purchased. The Bankrupt Partner's Interest (or portion thereof) acquired by any existing party to this Agreement shall become subject in all respects to this Agreement.

(h) Right of Assignment. Dondero and Okada shall have the right to assign their right to purchase the Bankrupt Partner's Interest to any Person that is, or becomes pursuant to the terms of this Agreement, an Affiliated Limited Partner of Dondero or Okada.

Section 6. Disposition Upon a Community Property Event.

(a) Option. In the event any individual Limited Partner experiences a Community Property Event (the "*Subject Limited Partner*"), the Subject Limited Partner must give the Partnership written notice within ten (10) days of (i) the death of that Limited Partner's spouse or (ii) an entry of a judicial decree or other order granting the divorce or annulment, as appropriate. Within five (5) days after the Partnership has the Determined Value, the Partnership shall send a written notice to the Partners regarding the sale of the Spouses' Interest (as defined herein) pursuant to this Section 6 (the "*CP Event Notice*"). The CP Event Notice shall state the portion of the Partnership Interest of the Subject Limited Partner that is subject to Transfer to his/her spouse or his/her spouse's estate or heirs, as appropriate (the "*Spouse's Interest*"). The spouse or legal representative of the estate and heirs of the spouse of the Subject Limited Partner shall be deemed to have granted (i) first, to the Subject Limited Partner; (ii) second, to the Unrelated Limited Partners (as defined herein); and (iii) third, to the Partnership, an option to purchase any and all of such Spouse's Interest for the price and upon the terms set forth in this Section 6. For purposes of this Section 6, "*Unrelated Limited Partners*" means all Limited Partners other than the Subject Limited Partner (including that Subject Limited Partner's spouse, and the Spouse's heirs or estate, as appropriate).

(b) Election to Exercise by Subject Limited Partner. Within fifteen (15) days after the CP Event Notice, the Subject Limited Partner shall notify the Partnership and the Limited Partners of the portion of the Spouse's Interest, if any, that the Subject Limited Partner elects to purchase. If the Subject Limited Partner is a Founding Limited Partner, that Subject Limited Partner shall have the right to assign his/her right to purchase the Spouse's Interest to any Person that is, or becomes pursuant to the terms of this Agreement, an Affiliated Limited Partner of that Subject Limited Partner.

(c) Election to Exercise by Unrelated Limited Partners. The Partnership shall, within twenty (20) days after receipt of the CP Event Notice, notify the Unrelated Limited Partners that the Subject Limited Partner will exercise his/her option for none, or less than all, of the Spouse's Interest. The Unrelated Limited Partners shall have the right to purchase their pro rata portion of the Spouse's Interest that is not acquired by the Subject Limited Partner. Within twenty-five (25) days after the CP Event Notice, the Unrelated Limited Partners shall notify the Partnership and the Partners of the portion of the Available Spouse's Interest, if any, that they elect to purchase. If any Unrelated Limited Partner elects to purchase none or less than all of his pro rata portion of the remaining Spouse's Interest (the remaining Spouse's Interest which the Unrelated Limited Partner elects not to purchase being called "*Available Spouse's Interest*"), the Partnership shall, within thirty (30) days after the CP Event Notice, notify the Unrelated Limited Partners of that election and each other Unrelated Limited Partner may elect,

by notifying the Partnership in writing within thirty-five (35) days after the CP Event Notice, to purchase that Available Spouse's Interest in the proportion which the Partnership Interest owned by that other Unrelated Limited Partner bears to the aggregate Partnership Interest owned by all other Unrelated Limited Partners who similarly elect to purchase that Available Spouse's Interest.

(d) Mandatory Purchase by the Partnership. If the Subject Limited Partner and the Unrelated Limited Partners notify the Partnership that they will exercise their option for none, or less than all, of the Spouse's Interest, the Partnership shall be obligated to purchase any remaining portion of the Spouse's Interest that is not acquired by the Subject Limited Partner or the Unrelated Limited Partners.

(e) Manner of Exercise. Upon determination of the portion of the Spouse's Interest to be purchased by the Limited Partners or the Partnership, the Partnership, on its behalf and/or on behalf of the Limited Partners who are purchasing the Spouse's Interest, shall give notice of exercise to the spouse and/or the estate and heirs of the Spouse, as appropriate, of the Subject Limited Partner within forty (40) days after the CP Event Notice. Any Limited Partner notifying the Partnership of his desire to purchase all or any portion of the Spouse's Interest shall be obligated to do so.

(f) Payment Terms. The closing of the purchase of all or any portion of the Spouse's Interest pursuant to this Section 6 shall occur on or before the seventieth (70th) day after receipt of the CP Event Notice. The Purchase Price for that Spouse's Interest shall be determined in accordance with Section 11(c). The purchasers of the Spouse's Interest may, at their sole and unfettered discretion, pay for that Spouse's Interest either (i) in readily available funds; or (ii) with a promissory note, the form of which is attached as Exhibit F; *provided, however*, the minimum and maximum aggregate amount per calendar quarter that the Partnership or any of its Affiliates must pay to the Subject Limited Partner's spouse or that spouse's estate or heirs under this Agreement and the Second Amended and Restated HCM Services Long-Term Incentive Plan, as may be amended from time to time, is $250,000.

(g) Interest Purchased. The Spouse's Interest (or portion thereof) acquired by any existing party to this Agreement shall become subject in all respects to this Agreement. If the Subject Limited Partner is a Founding Limited Partner, that Subject Limited Partner may, but shall not be required to, designate any trust that is permitted to acquire a Partnership Interest hereunder as an Affiliated Limited Partner of that Subject Limited Partner.

(h) Right of Assignment. Dondero and Okada shall have the right to assign their right to purchase the Spouse's Interest to any Person that is, or becomes pursuant to the terms of this Agreement, an Affiliated Limited Partner of Dondero or Okada.

Section 7. Disposition Upon a Trigger Event with Respect to a Non-Founding Limited Partner.

(a) Option. Upon the occurrence of a Trigger Event with respect to a Non-Founding Limited Partner (the "*NFLP*"), the Partnership shall, within five (5) days after it has the Determined Value, send a written notice to the Partners regarding the sale of the NFLP's Interest (as defined herein) pursuant to this Section 7 (the "*Trigger Event Notice*"). The NFLP shall be deemed to have granted (i) first, to the Limited Partners, other than that selling NFLP, for any Trigger Event, other than a Change in Control (the "*Other Limited Partners*"); and (ii) second, to the Partnership, an option to purchase any and all interest with respect to the NFLP's Partnership Interest (the "*NFLP's Interest*") upon the terms set forth in this Section 7.

(b) Election to Exercise by Other Limited Partners. The Other Limited Partners shall have the right to purchase their pro rata portion of the NFLP's Interest upon any Trigger Event other than a Change of Control. Within fifteen (15) days after the Trigger Event Notice, each of the Other Limited

Partners shall notify the Partnership whether that Other Limited Partner desires to purchase that Other Limited Partner's pro rata portion of the NFLP's Interest. If any Other Limited Partner elects to purchase none, or less than all, of his pro rata part of the NFLP's Interest (the remaining NFLP's Interest which that Other Limited Partner elects not to purchase being called the "*Available NFLP Interest*"), the Partnership shall, within twenty (20) days after receipt of the Trigger Event Notice, notify the Other Limited Partners of that Available NFLP Interest, and each of the Other Limited Partners may elect, by notifying the Partnership in writing within twenty-five (25) days after receipt of the Trigger Event Notice, to purchase that Available NFLP Interest in the proportion which the Partnership Interest owned by that Other Limited Partner bears to the aggregate Partnership Interest owned by all Other Limited Partners who similarly elect to purchase that Available NFLP Interest.

(c) Mandatory Purchase by the Partnership. If the Other Limited Partners notify the Partnership that they will exercise their option for none, or less than all, of the NFLP's Interest, the Partnership shall be obligated to purchase any remaining portion of the NFLP's Interest that is not acquired by the Other Limited Partners. If the Trigger Event is a Change in Control, the Partnership shall be obligated to purchase all of the NFLP's Interest.

(d) Manner of Exercise. Upon determination of the portion of the NFLP's Interest to be purchased by the Limited Partners, the Partnership, on its behalf and/or on behalf of the Limited Partners who are purchasing the NFLP's Interest, shall give notice of exercise to the NFLP within thirty (30) days after receipt of the Trigger Event Notice. Any Limited Partner notifying the Partnership of his desire to purchase all or any portion of the NFLP's Interest shall be obligated to do so.

(e) Payment Terms. The closing of the purchase of all or any portion of the NFLP's Interest pursuant to this Section 7 shall occur on or before the fiftieth (50th) day after receipt of the Trigger Event Notice. The Purchase Price for that NFLP's Interest shall be determined in accordance with Sections 11(b) and 11(c), as appropriate. The purchasers of the NFLP's Interest may, at their sole and unfettered discretion, pay for that NFLP's Interest either (i) in readily available funds, or (ii) with a promissory note, the form of which is attached as Exhibit F; *provided, however*, the minimum and maximum aggregate amount per calendar quarter that the Partnership or any of its Affiliates must pay to the NFLP under this Agreement and the Second Amended and Restated HCM Services Long-Term Incentive Plan, as may be amended from time to time, is $250,000. If the Trigger Event is a Change in Control, the NFLP shall receive a payment from the Partnership upon the earlier of (A) one (1) year following the Change of Control, (B) the date the Partnership or an Affiliate Employer terminates the NFLP's employment with the Partnership or the Affiliate Employer without Cause, (C) the date the Partnership or Affiliate Employer reduces the NFLP's Compensation to less than one hundred percent (100%) of his/her prior year's Compensation or (D) the date either James D. Dondero or Mark K. Okada receive his/their first payment for his/their Partnership Interest. For purposes of this Section 7(e), "*Compensation*" means, with respect to any NFLP for any calendar year, the sum of (i) that NFLP's wages as reported by the Partnership or Affiliate Employer on an IRS Form W-2, (ii) all the Partnership's or Affiliate Employer's contributions to that NFLP's 401(k) account, and (iii) any consideration paid to that NFLP under that certain HCM Services Option Plan, dated June 28, 2001, as may be amended from time to time.

(f) Interest Purchased. The NFLP's Interest (or portion thereof) acquired by any existing party to this Agreement shall become subject in all respects to this Agreement.

(g) Mutual Dependence. The rights, obligations, and liabilities of the Non-Founding Limited Partner and the Partnership with respect to a Trigger Event are conditioned, and dependent on, the Non-Founding Limited Partner's consent and agreement to the promises set forth in Section 15, and to the enforceability of such covenants as stated therein with respect to that Non-Founding Limited Partner in the event of a dispute between that Non-Founding Limited Partner and the Partnership or an Affiliate

Employer.

(h) Right of Assignment. Dondero and Okada shall have the right to assign their right to purchase the NFLP's Interest to any Person that is, or becomes pursuant to the terms of this Agreement, an Affiliated Limited Partner of Dondero or Okada.

Section 8. Termination of a Non-Founding Limited Partner for Cause. If any Non-Founding Limited Partner's employment with any Affiliate Employer or participation in the Partnership is terminated for Cause, that Non-Founding Limited Partner's Partnership Interest shall be forfeited to Dondero's Founding Limited Partner Group and Okada's Founding Limited Partner Group and that Non-Founding Limited Partner shall not receive any compensation therefore. In such event, the Non-Founding Limited Partner's Partnership Interest and related Capital Account (as defined in the Partnership Agreement) shall be allocated to Dondero's Founding Limited Partner Group and Okada's Founding Limited Partner Group pro rata. Dondero and Okada shall have the right to assign their right to the forfeited Partnership Interest and related Capital Account to any Person that is, or becomes pursuant to the terms of this Agreement, an Affiliated Limited Partner of Dondero or Okada.

Section 9. Obligation of Spouses of Limited Partners. The spouse of each Limited Partner, if any, shall join in the execution of this Agreement to evidence his/her knowledge of its existence, and his/her acknowledgment that he/she agrees to the provisions of this Agreement, and that he/she desires to bind his/her community interest, if any, in the Partnership Interest of that Limited Partner to the performance of this Agreement. Accordingly, each Limited Partner's spouse agrees that, in the event of the death of his/her spouse, or occurrence of any other event as herein provided, the covenants made in this Agreement shall be, and hereby are, accepted as binding on that spouse individually and upon all Persons ever to claim under that spouse. However, the foregoing is not intended to, and should not be construed as, conferring or creating any community property interest in a Partnership Interest in the spouse of any Limited Partner. A Limited Partner who marries or remarries after the date hereof shall cause his/her spouse to promptly join in the execution of this Agreement in accordance with this Section 9.

Section 10. Determination of Agreed Value of the Partnership.

(a) The parties hereto acknowledge that the Agreed Value of the Partnership on February 29, 2004, was $125,000,000 and on May 27, 2004 and continuing through the date hereof it is $200,000,000. On January 1 of each calendar year, or at such other times as the Founding Limited Partners deem appropriate, the Agreed Value of the Partnership shall be such other amount as may be fixed by the Founding Limited Partners in a written statement signed by each Founding Limited Partner in the form of Exhibit C, a copy of which shall promptly be sent to all Partners and the trustee of each Founding Limited Partner Insurance Trust. The Agreed Value shall be based on one hundred percent (100%) of the Partnership Interests in the Partnership. If more than one such statement is signed by the Founding Limited Partners after the date of the adoption of this Agreement, the statement with the latest date shall control.

(b) The Founding Limited Partners, or an appraiser, as applicable, may consider any one or more factors when determining the Agreed Value, including, but not limited to, the following: (i) profitability of the Partnership; (ii) earning trends; (iii) accumulated and undistributed capitalization; (iv) growth potential; and (v) other economic factors affecting the business of the Partnership, including the likely negative impact caused by the death of a Founding Limited Partner or any key employee, if applicable; however, the existence of insurance on the lives of the Founding Limited Partners shall not be taken into account in determining the Agreed Value.

(c) If the Founding Limited Partners have not fixed the Agreed Value within twelve (12) months prior to a Determination Event, the Agreed Value shall be determined by a written agreement between the Founding Limited Partners, or if a Founding Limited Partner is not living, between the surviving Founding Limited Partner and the Departing Founding Limited Partner Group (acting by majority vote based upon their respective Partnership Interests) of the deceased Founding Limited Partner. If such parties cannot agree upon the Agreed Value within ten (10) days following the Determination Event, the Agreed Value shall be determined by an independent, third-party appraisal performed by an appraiser mutually agreed upon by the parties. The Founding Limited Partners and the Partnership shall promptly provide to the appraiser any information reasonably requested by such appraiser and such appraiser shall notify the Founding Limited Partners, the trustees of the Founding Limited Partner Insurance Trusts and the Departing Founding Limited Partner Group (if applicable) of the Agreed Value no later than twenty (20) days after receiving all such information from the Founding Limited Partners and the Partnership.

(d) If such parties (being the Founding Limited Partners or, if applicable, the surviving Founding Limited Partner and the Departing Founding Limited Partner Group) are unable to agree on a single independent third-party appraiser within twenty (20) days after a Determination Event, then each party shall select a separate appraiser. If either party fails to select an appraiser, then the Agreed Value shall be determined by the appraiser selected by the other party. The parties shall promptly provide to each appraiser any information reasonably requested by each such appraiser. Each appraiser shall determine the fair value of the Partnership and shall notify the Founding Limited Partners, the trustees of the Founding Limited Partner Insurance Trusts and, if applicable, the Departing Founding Limited Partner Group, of their calculation of the Agreed Value no later than twenty (20) days after receiving all such information from the parties. If the lower value so determined is at least ninety percent (90%) of the higher value so determined, the Agreed Value shall be the average of the two values so determined. If the lower value is less than ninety percent (90%) of the higher value so determined, the two appraisers shall, within ten (10) days, select a third appraiser and provide such third appraiser with all information relevant to determining the Agreed Value. Such third appraiser shall thereafter determine the fair value of the Partnership and shall notify all the Partners and the trustees of the Founding Limited Partner Insurance Trusts of such value within twenty (20) days after receiving the information from the first two (2) appraisers. The Agreed Value shall be the average of the three (3) values so determined. Notwithstanding the foregoing, the determination of the Agreed Value must be finalized within seventy-five (75) days following the date of the Determination Event. If the Determination Event was the death of a Founding Limited Partner, and if the Agreed Value has not been finalized within seventy-five (75) days following the date of the Determination Event, the appropriate trustee of a Founding Limited Partner Insurance Trust shall select an independent third-party appraiser who shall determine the Agreed Value in accordance with this Agreement.

(e) If the parties agree on a single appraiser, all costs of the appraisal shall be paid by the Partnership. If the parties are unable to agree on an appraiser and more than one appraiser is required to determine the Agreed Value, then the costs of all the appraisals shall be borne equally by such parties. If a trustee of a Founding Limited Partner Insurance Trust selected an appraiser, all costs of the appraisal shall be paid by the Partnership.

(f) If an appraiser is selected to determine the Agreed Value of Partnership Interests under this Agreement, and if there is a simultaneous dispute as to the value of an equity interest in the General Partner under the Buy-Sell Agreement, by and between Okada, Dondero and the General Partner, then the appraiser selected hereunder shall also serve as the appraiser of the equity interests in the General Partner.

(g) A copy of the statement of Agreed Value determined pursuant to this Section 10 shall promptly be sent to the General Partner and the trustee of each Founding Limited Partner Insurance

Trust. The trustee of each Founding Limited Partner Insurance Trust shall be entitled to rely upon the written agreement on the Agreed Value without further duty of inquiry.

Section 11. Purchase Price of Partnership Interests. The purchase price to be paid for any Partnership Interest (the "*Purchase Price*") shall be determined as follows:

(a) The purchase price to be paid for any Partnership Interest to be purchased by the Partnership or the Limited Partners, as applicable, pursuant to the Founding Limited Partner's death, Disability or termination of employment with the Partnership or any Affiliate Employer (for any reason whatsoever), shall be equal to the amount the holder of that Partnership Interest would be entitled to receive upon a hypothetical liquidation of the Partnership, assuming the Partnership were able to distribute liquidating proceeds to the Partners in an amount equal to the Agreed Value of the Partnership in effect as of the date of the Determination Event.

(b) The purchase price to be paid for any Partnership Interest to be purchased by the Partnership or the Limited Partners, as applicable, pursuant to (i) the death or Disability of a Non-Founding Limited Partner; (ii) the termination of a Non-Founding Limited Partner's employment with any Affiliate Employer without Cause; (iii) the retirement of a Non-Founding Limited Partner who has at least ten (10) years of service with any Affiliate Employer; or (iv) the voluntary resignation of a Non-Founding Limited Partner who has at least ten (10) years of service with any Affiliate Employer, shall be equal to the amount the holder of that Partnership Interest would be entitled to receive upon a hypothetical liquidation of the Partnership, assuming the Partnership were able to distribute liquidating proceeds to the Partners in an amount equal to the Determined Value of the Partnership.

(c) The purchase price to be paid for any Partnership Interest to be purchased by the Partnership or the Limited Partners, as applicable, pursuant to (i) a Community Property Event; (ii) the Bankruptcy of a Non-Founding Limited Partner; (iii) the Bankruptcy of a Founding Limited Partner; (iv) the retirement of a Non-Founding Limited Partner who has less than ten (10) years of service with any Affiliate Employer; or (v) the voluntary resignation of a Non-Founding Limited Partner who has less than ten (10) years of service with any Affiliate Employer, shall be equal to the sum of (a) the amount the holder of that Partnership Interest would be entitled to receive upon a hypothetical liquidation of the Partnership, assuming the Partnership were able to distribute liquidating proceeds to the Partners in an amount equal to the Determined Value of the Partnership minus (b) the product of (1) the Discount Factor multiplied by (2) the amount to be received upon a hypothetical liquidation of the Partnership subsection (a) of this paragraph. The "*Discount Factor*" shall be the discount to the purchase price that takes into consideration lack of control and lack of marketability of a Partnership Interest. The Discount Factor shall be twenty percent (20%).

Section 12. Assignment of Partnership Interests. Any Transfer of a Partnership Interest pursuant to this Agreement and the Partnership Agreement shall be made pursuant to an Assignment of Interest, in the form attached as Exhibit K. In the event any Limited Partner who is required to sell its Partnership Interest pursuant to this Agreement, fails or refuses to execute a proper Assignment of Interest, the General Partner shall be authorized to execute such Assignment of Interest as attorney-in-fact for that Limited Partner. Each Limited Partner hereby constitutes and appoints the General Partner, with full power of substitution, its true and lawful attorney-in-fact, and empowers and authorizes such attorney, in the name, place and stead of such Limited Partner, to make, execute, sign, swear to, acknowledge and file in all necessary or appropriate places all documents relating to the Assignment of Interest. This power of attorney is coupled with an interest, is irrevocable and shall continue notwithstanding the subsequent incapacity or death of the Limited Partner. Each Limited Partner and/or his assignee, transferee or successor-in-interest shall execute and deliver to the General Partner an executed and appropriately notarized power of attorney in such form consistent with the provisions of this Section 12 as the General Partner may request.

Section 13. Life Insurance on the Life of a Founding Limited Partner.

(a) In order to fund the purchase of Partnership Interests in the event of the death of a Founding Limited Partner pursuant to Section 4, the Partnership shall purchase or obtain insurance policies on the lives of the Founding Limited Partners in such amounts as the Partnership may deem to be desirable to provide for the performance by the Partnership of its rights and obligations under this Agreement giving due regard for the Agreed Value and the relative ownership of the Founding Limited Partners and their respective Affiliated Limited Partners. The Partnership shall take any actions necessary to maintain in force each policy it is required to maintain hereunder, including paying all premiums as they become due, and shall not cancel or allow that policy to lapse. The Partnership shall provide proof of such premium payment within twenty (20) days after the due date of each premium, if requested by any Founding Limited Partner. If any premium is not paid within twenty (20) days after its due date, a Founding Limited Partner may pay that premium and shall be entitled to reimbursement from the Partnership.

(b) The Partnership shall have the right to purchase additional insurance on the life each of the Founding Limited Partners from time to time, whenever, in the opinion of the Partnership, additional insurance may be required for the benefit of the Partnership to enable it to carry out its obligations under this Agreement.

(c) In furtherance of the Partnership's obligations under this Section 13, the Partnership is authorized and directed: (i) to establish two insurance rabbi trusts, one in the name of each of the Founding Limited Partners (each, a "*Founding Limited Partner Insurance Trust*"), to acquire the insurance policies required to be obtained by the Partnership; (ii) to assign to each such Founding Limited Partner Insurance Trust all rights and obligations of the Partnership to acquire and pay for that insurance; (iii) to assign to each Founding Limited Partner Insurance Trust any existing insurance on the life of the respective Founding Limited Partner now or hereafter obtained by the Partnership; (iv) to make payments to that Founding Limited Partner Insurance Trust for the necessary premiums on that insurance; (v) to make payments to that Founding Limited Partner Insurance Trust to acquire additional insurance; and (vi) to assign its obligation to purchase Partnership Interests pursuant to this Agreement to each that Founding Limited Partner Insurance Trust. Each Founding Limited Partner's Insurance Trust, forms of which are attached hereto as Exhibit D and Exhibit E, shall be designated as the beneficiary of the insurance policies on that Founding Limited Partner's life when such policies are obtained by the respective trusts or transferred by the Partnership to the applicable trust, and the trustee of that Founding Limited Partner Insurance Trust shall be responsible for the payment of the designated insurance proceeds to the members of a Departing Founding Limited Partner Group in partial satisfaction of the Partnership Interest purchase obligations under this Agreement.

(d) All benefits owing under this Agreement shall be paid out of the Partnership's general funds, which are subject to the claims of creditors, or out of each Founding Limited Partner Insurance Trust, provided that all assets of any such Founding Limited Partner Insurance Trust shall, at all times before actual payment to a member of the Departing Founding Limited Partner Group, remain subject to the claims of general creditors of the Partnership. Although the obligations set forth herein are to be deemed totally unfunded, the Partnership may, but shall not be obligated to, purchase one or more life insurance or annuity policies or contracts for the purpose of providing for its obligations hereunder. Any such policies or contracts, if so purchased, shall name Founding Limited Partner Insurance Trust as beneficiary and sole owner, with all incidents of ownership therein, including (but not limited to) the right to cash and loan values, dividends (if any), death benefits, and the right of termination. Any such policies or contracts purchased hereunder shall remain a general restricted asset of the Founding Limited Partner Insurance Trust. No member of the Departing Founding Limited Partner Group shall have any right, title or interest whatever in or to, or any claim, preferred or otherwise, in or to, any particular assets of the

Partnership as a result of being a signatory to this Agreement, any policy or contract as provided for herein, or any Founding Limited Partner Insurance Trust. Nothing contained in this Agreement, and no action taken pursuant to its provisions, shall create or be construed to create a trust or a fiduciary relationship of any kind between the Partnership and a member of the Departing Founding Limited Partner Group or any other Person. No member of the Departing Founding Limited Partner Group shall acquire any interest greater than that of an unsecured creditor in any assets of the Partnership or in a Founding Limited Partner Insurance Trust

Section 14. Payment of Purchase Price to the Departing Founding Limited Partner Group Upon the Death of a Founding Limited Partner. The Purchase Price to be paid by the Partnership to the Departing Founding Limited Partner Group upon the death of a Founding Limited Partner shall be paid as follows:

(a) Upon the death of a Founding Limited Partner, the trustee of the Founding Limited Partner's Insurance Trust shall collect the proceeds of the insurance policies carried on the life of the Founding Limited Partner. After the trustee of the Founding Limited Partner's Insurance Trust has received written confirmation of the Agreed Value as determined in accordance with Section 10, the trustee shall promptly, but no later than ten (10) days following the receipt of any insurance proceeds, pay by wire transfer or by certified check, that part of such proceeds which does not exceed the Purchase Price, to the members of the Departing Founding Limited Partner Group, (i) without any right to any set-off against, defense to, counterclaim of, or reduction of such payments to be made hereunder; and (ii) without regard to any dispute as to the Agreed Value. The trustee of the Founding Limited Partner's Insurance Trust will not use the insurance proceeds for any other purpose until that trustee has satisfied all of the obligations under this Agreement. If the amount of insurance proceeds exceeds the Purchase Price under the terms of this Agreement, that trustee shall distribute the excess proceeds to the Partnership.

(b) If there is more than one insurance policy held by a Founding Limited Partner's Insurance Trust upon the date of death and all of the proceeds of such policies are not received at the same time, then in making the above payments to the members of the Departing Founding Limited Partner Group, the trustee shall make payments first to the Founding Limited Partner's estate, up to the full amount of the Purchase Price to which the estate is entitled, and second to the other members of the Departing Founding Limited Partner Group pro rata.

(c) The Partnership shall indemnify the trustee of the Founding Limited Partner's Insurance Trust for any taxes, judgments, losses, or other costs that such trust shall incur as a result of receiving and transferring the insurance proceeds as herein provided. The trustee of the Founding Limited Partner's Insurance Trust shall also have the discretion to retain up to ten percent (10%) of the insurance proceeds for a reasonable period upon immediate payment of ninety percent (90%) of the insurance proceeds. Such reasonable period shall not extend beyond ninety (90) days after the date of the Determination Event. After such reasonable period, that trustee shall pay the remaining ten percent (10%) of the insurance proceeds held in that trust under the terms provided in this Section 14, together with interest on that withheld amount at a rate equal to Internal Revenue Service "Midterm Applicable Federal Rate" at the date of the Founding Limited Partner's death (on the basis of a 365-day or 366-day year, as applicable) and limited only by the maximum rate of interest provided by the laws of the State of Texas, to the Founding Limited Partner's estate and any other Affiliated Limited Partner of that Founding Limited Partner or Person owning Partnership Interests as designated by that Founding Limited Partner, but with that payment of interest not to exceed the balance under that trust.

(d) If the insurance proceeds are not sufficient to pay the entire Purchase Price, the trustee of the Founding Limited Partner's Insurance Trust can elect of the following options:

(i) Elect to have the Partnership pay the balance of the Purchase Price pursuant to a promissory note, in the form attached as Exhibit G (the "*Partnership Note*"). In order to provide collateral security for the payment of the Partnership Note, the Surviving Founding Limited Partner Group shall execute a continuing guaranty in the form attached as Exhibit H and a pledge agreement in the form attached as Exhibit I.

(ii) Elect to have the General Partner cause the Partnership to liquidate, if the Founding Limited Partner who died is James D. Dondero. In the event of such election, the General Partner shall promptly begin to dissolve the Partnership in accordance with Article 5 of the Partnership Agreement.

(e) Any trustee of a Founding Limited Partner's Insurance Trust purchasing a Partnership Interest pursuant to this Agreement, in his sole and unfettered discretion, may require each member of the Departing Founding Limited Partner's Group to provide him with an opinion of counsel (such counsel to be approved by the trustee in his sole and unfettered discretion) stating that there is no prohibition against the transfer of that member's Partnership Interest, that member has the authority to transfer that member's Partnership Interest, and that transfer is made free and clear of all liens, encumbrances, security interests, claims or options. The trustee shall not be obligated to purchase the Partnership Interest of any member until such time as he receives the legal opinion herein requested and that member has fully complied with all the terms of this Agreement.

(f) If any member of the Departing Founding Limited Partner Group or any other intended beneficiary of this Agreement or of the Founding Limited Partner Insurance Trust of the Departing Founding Limited Partner (an "*Objector*"), in any manner whatsoever, directly or indirectly, contests or attacks this Agreement or any of its provisions or the Founding Limited Partner Insurance Trust or any of its provisions, or performs any act that would frustrate the purpose of this Agreement or the Founding Limited Partner Insurance Trust or conspires or cooperates with anyone attempting to contest, attack, or frustrate this Agreement or the Founding Limited Partner Insurance Trust, then that Objector shall be deemed to forfeit all of its interest in the Partnership; *provided, however*, that a petition, made in good faith, seeking an interpretation of this Agreement or the Founding Limited Partner Insurance Trust shall not be considered a contest of, an attack on, or an attempt to frustrate the purpose of this Agreement or the Founding Limited Partner Insurance Trust.

Section 15. Confidentiality, Non-Competition, Non-Solicitation, and Non-Recruitment.

(a) The Partnership's Promise to Provide Confidential Information and Specialized Training. At the inception of this Agreement, and continuing on an ongoing basis during the Non-Founding Limited Partner's participation in the Partnership, the Partnership agrees to provide the Non-Founding Limited Partner with new Confidential Information and Specialized Training to which the Non-Founding Limited Partner has not previously had access.

(b) The Non-Founding Limited Partner's Promise not to Use or Disclose the Confidential Information. In exchange for the Partnership's promise to provide the Non-Founding Limited Partner with Confidential Information and Specialized Training, the Non-Founding Limited Partner shall not, during the period of participation in the Partnership under this Agreement or at any time thereafter, disclose to anyone, including, without limitation, any Person, or publish, or use for any purpose, any Confidential Information, except as: (i) required in the ordinary course of the Partnership's business or the Non-Founding Limited Partner's work for the Partnership or its Affiliate Employer; (ii) required by law; or (iii) directed and authorized in writing by the Partnership. Upon the termination of the Non-Founding Limited Partner's participation in the Partnership and/or any Affiliate Employer, for any reason, the Non-Founding Limited Partner shall immediately return and deliver to the Partnership any and all computers, hard-drives, papers, books, records, documents, memoranda, manuals, e-mail,

electronic or magnetic recordings or data, including all copies thereof, belonging to the Partnership or Affiliate Employer, containing Confidential Information, or relating to the Partnership's or Affiliate Employer's business, which are in the Non-Founding Limited Partner's possession, whether prepared by the Non-Founding Limited Partner or others. If at any time after termination of the Non-Founding Limited Partner's participation in the Partnership, for any reason, the Non-Founding Limited Partner determines that the Non-Founding Limited Partner has any Confidential Information in the Non-Founding Limited Partner's possession or control, the Non-Founding Limited Partner shall immediately return to the Partnership all such Confidential Information in the Non-Founding Limited Partner's possession or control, including all copies and portions thereof.

(c) Mutual Dependence. The rights, obligations, and liabilities of the Non-Founding Limited Partner and the Partnership with respect to a Trigger Event as set forth in Section 7 are conditioned and dependent on, the Non-Founding Limited Partner's consent and agreement to the promises set forth in Section 15 of this Agreement, and to the enforceability of such covenants as stated therein with respect to that Participant in the event of a dispute between that Non-Founding Limited Partner and the Partnership or Affiliate Employer.

(d) The Restrictive Covenants. Each Non-Founding Limited Partner recognizes and agrees that: (i) the Partnership has devoted a considerable amount of time, effort, and expense to develop its Confidential Information and business goodwill; (ii) the Confidential Information and the Partnership's business goodwill are valuable assets to the Partnership; and (iii) any unauthorized use or disclosure of the Partnership's or Affiliate Employer's Confidential Information would cause irreparable harm to the Partnership for which there is no adequate remedy at law, including damage to the Partnership's business goodwill. Accordingly, each Non-Founding Limited Partner agrees that to protect the Partnership's Confidential Information and business goodwill, it is necessary to enter into the following restrictive covenants, which are ancillary to the enforceable promises between the Non-Founding Limited Partner and the Partnership in Sections 7(g), 15(a) and 15(b). The Non-Founding Limited Partner, either individually or as a principal, partner, stockholder, manager, agent, consultant, contractor, employee, lender, investor, or as a director or officer of any corporation or association, or in any other manner or capacity whatsoever, agrees that during the period in which the Non-Founding Limited Partner is a Partner in the Partnership and for a period of one (1) year following the date on which the Non-Founding Limited Partner ceases (for whatever reason) to be a Partner (the "***Non-Competition Period***"), the Non-Founding Limited Partner shall not, whether directly or indirectly, without the express prior written consent of the General Partner (excluding the activities of the Non-Founding Limited Partner's spouse or other immediate family members independently engaged in such activities):

(i) Non-Solicitation. Solicit business, attempt to solicit business, or accept business in products or services competitive with products or services sold by any of the Applicable Entities, from any of the Applicable Entities' clients, customers, prospective or potential clients or customers, or those individuals or entities that any of the Applicable Entities did business with during the Non-Founding Limited Partner's employment with the Partnership or any Affiliate Employer, with whom the Non-Founding Limited Partner solicited or dealt with, in any capacity, while a Partner in the Partnership or employee of any Affiliate Employer during the twenty-four (24) months immediately preceding the Non-Competition Period.

(ii) Non-Recruitment. Hire, solicit for employment, induce or encourage to leave the employment of the Partnership or otherwise cease their employment with any of the Applicable Entities, any employee or any former employee of any Applicable Entities whose employment with any of the Applicable Entities ceased than less than six (6) months earlier.

(iii) Non-Competition. Within any market in which any of the Applicable Entities provided services or sold products during the twenty-four (24) months immediately preceding the Non-Competition Period, become employed, advise, perform services or otherwise serve in any capacity with a Competing Business in which Partner would (1) perform similar duties to those performed while at the Partnership or Affiliate Employer; (2) engage in or provide services to any client, customer, or prospective or potential clients or customers of any of the Applicable Entities, or competitor of any of the Applicable Entities; or (3) provide services that are competitive with a product, service, process or development on which the Non-Founding Limited Partner worked at the Partnership or Affiliate Employer, or with which the Non-Founding Limited Partner had access to Confidential Information while a Partner with the Partnership or employed with an Affiliate Employer. However, the Non-Founding Limited Partner may own, directly or indirectly, solely as an investment, securities of any business traded on any national securities exchange or NASDAQ, provided that the Non-Founding Limited Partner is not a controlling person of, or member of a group that controls such business, and provided further that the Non-Founding Limited Partner does not, directly or indirectly, own three percent (3%) or more of any class of securities of such business. If the Partnership or Affiliate Employer notifies a Partner in writing that he/she is being terminated as the result of a downsizing or reduction in force by the Partnership or Affiliate Employer, then this Section 15(d)(iii) shall not apply to that Partner after termination of his/her employment with the Company or Affiliate Employer.

(e) Remedies. The Non-Founding Limited Partner acknowledges that the restrictions contained in this Section 15, in view of the nature of the Partnership's business, are reasonable and necessary to protect the Partnership's legitimate business interests and business goodwill and that any violation of this Agreement would result in irreparable injury to the Partnership. In the event of a breach by the Non-Founding Limited Partner of any provision of this Section 15, the Partnership shall, assuming the provisions of Section 15(e)(i) are applied and upheld, only be entitled to take the following actions as its sole remedy against that Non-Founding Limited Partner for such breach:

(i) Forfeiture of the Partnership Interest. From the date of breach by the Non-Founding Limited Partner of this Section 15, the Non-Founding Limited Partner's Partnership Interest shall automatically lapse and be forfeited and shall revert to Dondero's Founding Limited Partner Group and Okada's Founding Limited Partner Group on a pro rata basis; *provided, however*, Dondero and Okada may assign their right to the forfeited Partnership Interest to any Person that is, or becomes pursuant to the terms of this Agreement, an Affiliated Limited Partner of Dondero or Okada. The Partnership shall have no further obligation to the Non-Founding Limited Partner pursuant to Section 7 of this Agreement, nor any further obligation to make any further distributions or allocations of Partnership income to the Non-Founding Limited Partner under the terms of the Partnership Agreement. In addition, the Partnership shall be entitled to (1) a refund from the Non-Founding Limited Partner of any payments the Partnership or any Partner made to that Non-Founding Limited Partner pursuant to this Agreement, plus (2) the sum of the Partnership's attorneys' fees, costs and expenses related to the breach.

(ii) Temporary Restraining Order and Injunctive Relief. A temporary restraining order and injunctive relief restraining the Non-Founding Limited Partner from the commission of any breach of this Section 15 (other than Section 15(d)(iii)), and to recover the Partnership's attorneys' fees, costs and expenses related to the breach.

The existence of any claim or cause of action by the Non-Founding Limited Partner against the Partnership, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Partnership of the restrictive covenants contained in this Section 15.

(f) Reformation. The Non-Founding Limited Partner and the Partnership agree that all of the covenants contained in this Section 15 shall survive the termination or expiration of this Agreement, and agree further that in the event any of the covenants contained in this Section 15 shall be

held by any court to be effective in any particular area or jurisdiction only if said covenant is modified to limit its duration or scope, then, at the sole option of the Partnership, excluding the vote of the Non-Founding Limited Partner in breach of this Agreement, the provisions of Section 15(i) may be deemed to have been triggered, and the rights, liabilities, and obligations set forth therein shall apply. In the event the Partnership does not elect to trigger application of Section 15(i), then the court shall have such authority to so reform the covenant and the parties hereto shall consider such covenant(s) and/or other provisions of this Section 15 to be amended and modified with respect to that particular area or jurisdiction so as to comply with the order of any such court and, as to all other jurisdictions, the covenants contained herein shall remain in full force and effect as originally written. Should any court hold that these covenants are void or otherwise unenforceable in any particular area or jurisdiction, then notwithstanding the foregoing provisions of this Section 15(f), the provisions of Section 15(i) shall be applicable and the rights, liabilities and obligations of the parties set forth therein shall apply. Alternatively, at the sole option of the Partnership, the Partnership may consider such covenant(s) and/or provisions of this Section 15 to be amended and modified so as to eliminate therefrom the particular area or jurisdiction as to which such covenants are so held void or otherwise unenforceable and, as to all other areas and jurisdictions covered hereunder, the covenants contained herein shall remain in full force and effect as originally written.

(g) Tolling. If the Non-Founding Limited Partner violates any of the restrictions contained in this Section 15, the restrictive period will be suspended and will not run in favor of the Non-Founding Limited Partner until such time that the Non-Founding Limited Partner cures the violation to the satisfaction of the Affiliate Employer, or for a period of three (3) years after the Non-Founding Limited Partner's employment with the Affiliate Employer ended, whichever period is shorter.

(h) Notice. If a Non-Founding Limited Partner, in the future, seeks or is offered employment, or any other position or capacity with another company or entity, the Non-Founding Limited Partner agrees to inform each new employer or entity, before accepting employment, of the existence of the restrictions in this Section 15. Further, before taking any employment position with any Person during the Non-Competition Period, the Non-Founding Limited Partner agrees to give prior written notice to the Partnership of the name of such Person. The Partnership shall be entitled to advise such Person of the provisions of Section 15 and to otherwise deal with such Person to ensure that the provisions of Section 15 are enforced and duly discharged.

(i) Pre-conditional Obligation and Restoration. This Section 15 (the "*Non-Compete Article*") is material to this Agreement, and this Agreement is a material and important component of the Partnership Agreement. The enforceability of the Non-Compete Article is a precondition for the Partnership's and/or any Limited Partner's purchase of the Non-Founding Limited Partner's Interest pursuant to this Agreement, as well as receipt of Non-Founding Limited Partner's payments under any promissory note following a Non-Founding Limited Partner's termination from the Partnership, for any reason. Should all or any part or application of the Non-Compete Article be held or found invalid or unenforceable for any reason whatsoever by a court or other constituted legal authority of competent jurisdiction in an action between a Non-Founding Limited Partner and the Partnership, that Non-Founding Limited Partner and Partnership agree as follows:

(i) That Non-Founding Limited Partner's Partnership Interest shall automatically lapse and be forfeited and shall revert to Dondero's Founding Limited Partner Group and Okada's Founding Limited Partner Group on a pro rata basis;

(ii) The Partnership shall have no obligation to make any further allocation of Partnership income or distributions to that Non-Founding Limited Partner under the terms of the Partnership Agreement; and

(iii) The Partnership shall be entitled to discontinue future payments and receive the full value of any payments which were made to that Non-Founding Limited Partner in exchange for its Partnership Interest from the date of that Non-Founding Limited Partner's termination from the Partnership, for any reason, through the date on which a court or other constituted legal authority held or found the Non-Compete Article to be invalid or unenforceable. If that Non-Founding Limited Partner has Transferred his Partnership Interest, Dondero and Okada shall be entitled to recover the full monetary value of the consideration paid to that Non-Founding Limited Partner for its Partnership Interest.

Section 16. **Termination.** This Agreement shall terminate upon the earliest to occur of the following events:

(a) The voluntary or involuntary termination of the Partnership;

(b) All of the Partnership Interests become owned by one Founding Limited Partner and that Founding Limited Partners' Affiliated Limited Partners; or

(c) The mutual agreement of the Founding Limited Partners to terminate this Agreement.

Section 17. **Legend on Certificates.** The following statement must appear conspicuously on each certificate (if any) issued by the Partnership related to a Partnership Interest:

> THE PARTNERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS UPON TRANSFER AND ARE SUBJECT TO A BUY-SELL AND REDEMPTION AGREEMENT AMONG THE LIMITED PARTNERS OF THE PARTNERSHIP. FOR A COPY OF THIS BUY-SELL AND REDEMPTION AGREEMENT, CONTACT THE GENERAL PARTNER OF THE PARTNERSHIP AT THE PRINCIPAL OFFICE OF THE PARTNERSHIP AT 13455 NOEL ROAD, SUITE 1300, DALLAS, TEXAS 75240.

Section 18. **Miscellaneous.**

(a) Amendments to Agreement. The Partnership may amend this Agreement without the consent of any party hereto if the Partnership reasonably determines that such amendment is necessary and appropriate. An amendment to this Agreement shall not be deemed to be a termination of this Agreement.

(b) Joinder. The spouses, if any, of the Limited Partners join in the execution and delivery of this Agreement for the express purpose of binding their community property or other interests, if any, in the Partnership Interest now owned or hereafter acquired by the Limited Partner who is his/her spouse.

(c) Benefit. This Agreement is binding upon and inures to the benefit of all parties hereto and their respective heirs, legatees, legal representatives, successors and permitted assigns. The executors, administrators or legal representatives of the Limited Partners, upon their deaths, shall execute and deliver any and all instruments and documents and do any and all acts and things necessary and appropriate to carry out the terms and provisions of this Agreement.

(d) Notices. All notices, offers, acceptances, requests and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered with receipt given, personally, by certified or registered mail, or by courier by a nationally recognized overnight mail

service (*e.g.*, Federal Express) to the parties to this Agreement (at the address set forth on Exhibit J, as that Exhibit may be amended from time to time) as applicable, unless any party hereto designates in writing to the other parties that it shall be notified at a different address; or, in the event a party dies, that notice shall also be sent to a duly appointed guardian of the estate of that party or, if no such guardian has been appointed, to such person as the party may have designated in writing to receive notices on his behalf under this Agreement.

(e) Construction. The headings of Sections of this Agreement are provided for convenience only and do not affect its construction or interpretation. All references to "Section" or "Sections" refer to the corresponding Section or Sections of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require.

(f) Entirety. This Agreement contains the entire understanding and agreement between the parties and supersedes any prior written or oral agreements between them respecting the subject matter contained herein. This Agreement may not be changed, modified or amended except by an instrument in writing duly executed by the Partnership and the Limited Partners.

(g) No Waiver. The failure of any party to insist upon strict performance of a covenant hereunder or of any obligation hereunder, irrespective of the length of time for which such failure continues, is not a waiver of that party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation hereunder constitutes a consent or waiver to or of any other breach or default in the performance of the same or any obligation hereunder.

(h) Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same Agreement, and any of the parties to this Agreement may execute this Agreement by signing any of the counterparts. Any counterpart of this Agreement may be executed via facsimile transmission or pdf transmission.

(i) Governing Law. This Agreement has been prepared, is being executed and delivered, and is intended to be performed, in the State of Texas, and, at the sole choice of the Partnership, the substantive laws of Texas or the applicable law of the state in which the Non-Founding Limited Partner performed services for the Partnership or Affiliate Employer, and the applicable federal laws of the United States of America shall govern the validity, construction, enforcement, and interpretation of this Agreement.

(j) Venue. This Agreement is performable in Dallas County, Texas, and the venue for any action brought with respect to this Agreement shall, at the choice of the Company, be brought in Dallas County, Texas, or in the federal or state courts in which the Non-Founding Limited Partner worked for the Partnership or the Affiliate Employer.

Remainder of Page Intentionally Left Blank.
Signature Pages and Exhibits to Follow.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc.,
its general partner

By: _____
James D. Dondero,
President

GENERAL PARTNER:

STRAND ADVISORS, INC.

By: _____
James D. Dondero,
President

LIMITED PARTNERS:

_____
BRADFORD BORUD

_____
PATRICK DAUGHERTY

_____
DAVIS DEADMAN

_____
JAMES D. DONDERO

_____
R. JOSEPH DOUGHERTY

_____
PAUL KAUFFMAN

D-ezCleanDAL_1269751_11.DOC

PLAINTIFFS 000040

JOHN MORGAN

MARK K. OKADA

KURTIS PLUMER

TODD A. TRAVERS

DAVID WALLS

JOHN YANG

THE GET GOOD TRUST

By: _____
Grant Scott,
Trustee

THE GET BETTER TRUST

By: _____
James D. Dondero,
Trustee

CANIS MINOR TRUST

By: _____
James D. Dondero,
Trustee

D-czClearDAL_1269751_11.DOC

JOHN MORGAN

MARK K. OKADA

KURTIS PLUMER

TODD A. TRAVERS

DAVID WALLS

JOHN YANG

THE GET GOOD TRUST

By: Grant Scott,
Trustee

THE GET BETTER TRUST

By: James D. Dondero,
Trustee

CANIS MINOR TRUST

By: James D. Dondero,
Trustee

D-ezCleanDAL_1269751_11 (2).DOC

JOHN MORGAN

MARK K. OKADA

KURTIS PLUMER

TODD A. TRAVERS

DAVID WALLS

JOHN YANG

THE GET GOOD TRUST

By: _____
Grant Scott,
Trustee

THE GET BETTER TRUST

By: _____
James D. Dondero,
Trustee

CANIS MINOR TRUST

By: _____
James D. Dondero,
Trustee

D-ezCleanDAL_1269751_11.DOC

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1

By: _____
Lawrence Tonomura,
Trustee

THE MARK AND PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2

By: _____
Lawrence Tonomura,
Trustee

D-ezCleanDAL_1269751_11.DOC

PLAINTIFFS 000044

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:



BRADFORD BORUD

SPOUSE OF PARTNER:

ALTHEA BORUD

D-ezClesnDAL_1269751_11.DOC

PDADV_004362

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

BRADFORD BORUD

SPOUSE OF PARTNER:

Althea Borud

ALTHEA BORUD

D-DAL_1269751_10

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

DAVIS DEADMAN

SPOUSE OF PARTNER:

N/A

D-ezCleanDAL_1269751_11.DOC

PLAINTIFFS 000047

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

JAMES D. DONDERO

SPOUSE OF PARTNER:

N/A

D-exClean DAL_1269751_11.DOC

PLAINTIFFS 000048

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

R. JOSEPH DOUGHERTY

SPOUSE OF PARTNER:

N/A

D-ezCleanDAL_1269751_1.DOC

PDADV_004366

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

PAUL KAUFFMAN

SPOUSE OF PARTNER:

AMY KAUFFMAN

D-ezCleanDAL_1269751_11.DOC

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

PAUL KAUFFMAN

SPOUSE OF PARTNER:

AMY KAUFFMAN

D-DAL_1269751_10.DOC

PLAINTIFFS 000051

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

JOHN MORGAN

SPOUSE OF PARTNER:

DEBRA MORGAN

D-ezCleanDAL_1269751_11.DOC

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

JOHN MORGAN

SPOUSE OF PARTNER:

DEBRA MORGAN

D-ezCleanDAL_1269751_1.DOC

PLAINTIFFS 000053

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

MARK K. OKADA

SPOUSE OF PARTNER:

PAMELA OKADA

D-ezCleanDAL_1269751_11.DOC

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

MARK K. OKADA

SPOUSE OF PARTNER:

PAMELA OKADA

D-ezClesnDAL_1269751_1.DOC

PLAINTIFFS 000055

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

KURTIS PLUMER

SPOUSE OF PARTNER:

KRISTI PLUMER

D-ezCleanDAL_1269751_11.DOC

PLAINTIFFS 000056

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

KURTIS PLUMER

SPOUSE OF PARTNER:

KRISTI PLUMER

D-ezCleanDAL_1269751_11.DOC

PLAINTIFFS 000057

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:



TODD A. TRAVERS

SPOUSE OF PARTNER:

KIMBERLY TRAVERS

D-ezClaimDAL_1269751_11.DOC

PLAINTIFFS 000058

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

TODD A. TRAVERS

SPOUSE OF PARTNER:

KIMBERLY TRAVERS

D-DAL_1269751_10.DOC

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

DAVID WALLS

SPOUSE OF PARTNER:

CARI WALLS

D-ezCleanDAL_1269751_11.DOC

PLAINTIFFS 000060

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

_____
DAVID WALLS

SPOUSE OF PARTNER:

_____
CARI WALLS

D-DAL_1269751_10.DOC

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

JOHN YANG

SPOUSE OF PARTNER:

JOYCE YANG

D-DAL_1269751_10

PLAINTIFFS 000062

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 31st day of December, 2004, to be effective as of February 29, 2004.

PARTNER:

PATRICK DAUGHERTY

SPOUSE OF PARTNER:

KIMBERLY DAUGHERTY

D-ezCleanDAL-1269751_11.DOC

PLAINTIFFS 000063

EXHIBIT A

LIMITED PARTNERSHIP INTERESTS IN
HIGHLAND CAPITAL MANAGEMENT, L.P.

Limited Partners as of February 29, 2004, and current as of December 31, 2004:		Percentage Interest:
A.	Dondero and Dondero Affiliated Limited Partners	
	James D. Dondero	4.78325%
	The Get Good Trust	11.4798%
	The Get Better Trust	44.96255%
	Canis Minor Trust	9.5665%
B.	Okada and Okada Affiliated Limited Partners	
	Mark K. Okada	14.34975%
	The Mark and Pamela Okada Family Trust – Exempt Trust #1	6.69655%
	The Mark and Pamela Okada Family Trust – Exempt Trust #2	2.86995%
C.	Non-Founding Limited Partners	
	Bradford Borud	0.303%
	Patrick Daugherty	0.608%
	Davis Deadman	0.544%
	R. Joseph Dougherty	0.549%
	Paul Kauffman	0.390%
	John Morgan	0.281%
	Kurtis Plumer	0.426%
	Todd A. Travers	0.624%
	David Walls	0.203%
	John Yang	0.407%

EXHIBIT B

ADDENDUM TO BUY-SELL AND REDEMPTION AGREEMENT

THIS ADDENDUM (this "*Addendum*") to that certain Amended and Restated Buy-Sell and Redemption Agreement, dated as of December 31, 2004, to be effective February 29, 2004, as amended from time to time, by and among Highland Capital Management, L.P., a Delaware limited partnership (the "*Partnership*"), James D. Dondero, an individual, Mark K. Okada, an individual, and the other Limited Partners specified therein (collectively, the "*Limited Partners*") (the "*Agreement*"), is made and entered into as of the ____ day of _____, 20___, by and between the Partnership, on its behalf and on behalf of the Limited Partners and any other Persons who may hereafter become a party to the Agreement, and _____ (hereinafter referred to as the "*New Limited Partner*") (all capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement).

RECITALS:

WHEREAS, the Limited Partners have entered into the Agreement to promote their mutual best interests by providing for certain obligations concerning (i) the purchase of Partnership Interests by and among the Limited Partners and the Partnership upon the occurrence of certain events; (ii) the forfeiture of Partnership Interests upon the occurrence of certain events; and (iii) the Partnership's purchase of Partnership Interests held by the Departing Founding Limited Partner Group; and

WHEREAS, the Partnership, on its behalf and on behalf of the Limited Partners and any other Person who may become a party to the Agreement, and the New Limited Partner desire that the Agreement be amended to add the New Limited Partner as a party thereto, subject to all the rights and obligations under the Agreement;

NOW, THEREFORE, in consideration of the mutual promises of the parties and as a condition to receiving Partnership Interests in the Partnership, the New Limited Partner acknowledges that it shall be bound by, and shall have the benefit of, all the terms and conditions set out in the Agreement. This Addendum shall be attached to and become a part of the Agreement.

_____
[Insert Legal Name of New Limited Partner]

Identify which, if any, of the Founding Limited Partners is affiliated with the New Limited Partner:

Percentage Interest: _____%

AGREED AND ACCEPTED:

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc.,
its general partner

By: _____
Name: _____
Title: _____

SPOUSE'S AGREEMENT

Reference is made to that certain Amended and Restated Buy-Sell and Redemption Agreement of Highland Capital Management, L.P. (the "*Agreement*"). In consideration of the terms of the Agreement, in consideration of Highland Capital Management, L.P.'s allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the ____ day of _____, 20___.

PARTNER:

[_____]

SPOUSE OF PARTNER:

[_____]

EXHIBIT C

STATEMENT OF AGREED VALUE

As of the date specified below of that certain Amended and Restated Buy-Sell and Redemption Agreement dated December 31, 2004, to be effective February 29, 2004, by and among Highland Capital Management, L.P. (the "*Partnership*"), a Delaware limited partnership, James D. Dondero, an individual, Mark K. Okada, an individual (collectively, the "*Founding Limited Partners*"), and the other Limited Partners specified therein (the "*Agreement*"), and pursuant to Section 10 of the Agreement, the Agreed Value of the Partnership is $_____.

If the Agreed Value is determined by one or more appraisers pursuant to Section 10 of the Agreement, the Founding Limited Partners agree that the Agreed Value of the Partnership as of the anniversary date specified below is $_____.

Date: _____

Date of Execution: _____

_____
JAMES D. DONDERO

_____
MARK K. OKADA

EXHIBIT D

FORM OF DONDERO INSURANCE RABBI TRUST AGREEMENT

EXHIBIT E

FORM OF OKADA INSURANCE RABBI TRUST AGREEMENT

EXHIBIT F

FORM OF PROMISSORY NOTE

$_____ Dallas, Texas _____, 20__

FOR VALUE RECEIVED, the undersigned, _____ ("*Maker*"), hereby unconditionally promises to pay to the order of _____ ("*Payee*"), at _____, or such other address given to Maker by Payee, the principal sum of _____ Dollars ($_____), together with interest (calculated on the basis of a 365-day or 366-day year, as appropriate) on the unpaid principal balance from day to day remaining, computed from the date hereof until paid at the rate per annum that shall from day to day be equal to the lesser of (a) the Maximum Rate, or (b) the Applicable Federal Rate applicable to this Promissory Note on the date hereof [*based on maturity date of this Promissory Note*].

1. **Definitions.** When used in this Promissory Note, the following terms shall have the respective meanings specified herein or in the Section referred to:

"*Applicable Federal Rate*" has the meaning set forth in the United States Internal Revenue Code of 1986, as amended.

"*Business Day*" means a day upon which business is transacted by national banks in Dallas, Texas.

"*Default*" has the meaning ascribed to it in Section 5 hereof.

"*Maximum Rate*" means, with respect to the holder hereof, the highest non-usurious rate of interest, if any, permitted by applicable law on such day.

"*Obligation*" means all indebtedness, liabilities, and obligations, of every kind and character, of Maker, now or hereafter existing in favor of Payee arising under this Promissory Note.

2. **Payment.** The unpaid principal of and interest upon this Promissory Note shall be fully amortized and shall be due and payable as follows:

(a) _____ equal quarterly payments of principal in the amount of $_____ _____ shall be due each quarter beginning on _____, 20___;

(b) Interest shall be calculated as set forth herein and payable quarterly at the same time as the payments of principal set forth in Section 2(a); and

(c) One final payment of the unpaid principal of, and accrued and unpaid interest on, this Promissory Note shall be due and payable upon _____, 20___.

All payments of principal and interest of this Promissory Note shall be made by Maker to Payee in federal or other immediately available funds. Payments made to Payee by Maker hereunder shall be applied first to accrued interest and then to principal.

Should the principal of, or any installment of the principal of or interest upon, this Promissory Note become due and payable on any day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day, and interest shall be payable with respect to such extension.

All past due principal of and, to the extent permitted by applicable law, interest upon this Promissory Note shall bear interest at the Maximum Rate.

3. Waivers. Maker and each surety, endorser, guarantor, and other party ever liable for payment of any sums of money payable upon this Promissory Note, jointly and severally waive presentment, demand, protest, notice of protest and non-payment or other notice of default, notice of acceleration, and intention to accelerate, or other notice of any kind, and agree that their liability under this Promissory Note shall not be affected by any renewal or extension in the time of payment hereof, or in any indulgences, or by any release or change in any security for the payment of this Promissory Note, and hereby consent to any and all renewals, extensions, indulgences, releases, or changes, regardless of the number of such renewals, extensions, indulgences, releases, or changes.

No waiver by Payee of any of its rights or remedies hereunder or under any other document evidencing or securing this Promissory Note or otherwise, shall be considered a waiver of any other subsequent right or remedy of Payee; no delay or omission in the exercise or enforcement by Payee of any rights or remedies shall ever be construed as a waiver of any right or remedy of Payee; and no exercise or enforcement of any such rights or remedies shall ever be held to exhaust any right or remedy of Payee.

4. **Default and Remedies.**

(a) A "*Default*" shall exist hereunder if any one or more of the following events shall occur and be continuing: (i) Maker shall fail to pay when due (A) any principal of, or interest upon, this Promissory Note or (B) any other Obligation, and any such failure under this subsection (i) continues for three (3) Business Days; (ii) any representation or warranty made by Maker to Payee herein shall prove to be untrue or inaccurate in any material respect; (iii) default shall occur in the performance of any of the covenants or agreements of Maker contained herein, or in any other document executed or delivered to Payee in connection herewith and such default continues for ten (10) Business Days after notice from Payee to Maker; (iv) Maker shall (A) apply for or consent to the appointment of a receiver, trustee, intervenor, custodian or liquidator of itself or of all or a substantial part of its assets, (B) be adjudicated a bankrupt or insolvent or file a voluntary petition for bankruptcy or admit in writing that it is unable to pay its debts as they become due, (C) make a general assignment for the benefit of creditors, (D) file a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy or insolvency laws, or (E) file an answer admitting the material allegations of, or consent to, or default in answering, a petition filed against it in any bankruptcy, reorganization or insolvency proceeding, or take corporate action for the purpose of effecting any of the foregoing; or (v) an order, judgment or decree shall be entered by any court of competent jurisdiction or other competent authority approving a petition seeking reorganization of Maker or appointing a receiver, trustee, intervenor or liquidator of any such person, or of all or substantially all of its or their assets, and such order, judgment or decree shall continue unstayed and in effect for a period of sixty (60) days;

(b) If Maker fails or refuses to pay any part of the principal of or interest upon this Promissory Note as the same become due, or upon the occurrence of any Default hereunder or under any other agreement or instrument securing or assuring the payment of this Promissory Note or executed in connection herewith, then in any such event the holder hereof may, at its option, (i) declare the entire unpaid balance of principal and accrued interest of this Promissory Note to be immediately due and payable without presentment or notice of any kind which Maker waives pursuant to Section 3 herein, (ii) reduce any claim to judgment, and/or (iii) pursue and enforce any of Payee's rights and remedies

available pursuant to any applicable law or agreement including, without limitation, foreclosing all liens and security interests securing payment thereof or any part thereof.

5. **Voluntary Prepayment.** Maker reserves the right to prepay the outstanding principal balance of this Promissory Note, in whole or in part, at any time and from time to time, without premium or penalty. Any such prepayment shall be made together with payment of interest accrued on the amount of principal being prepaid through the date of such prepayment.

6. **Usury Laws.** Regardless of any provisions contained in this Promissory Note, Payee shall never be deemed to have contracted for or be entitled to receive, collect, or apply as interest on the Promissory Note, any amount in excess of the Maximum Rate, and, in the event Payee ever receives, collects, or applies as interest any such excess, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance of this Promissory Note, and, if the principal balance of this Promissory Note is paid in full, then any remaining excess shall forthwith be paid to Maker. In determining whether or not the interest paid or payable under any specific contingency exceeds the highest lawful rate, Maker and Payee shall, to the maximum extent permitted under applicable law, (a) characterize any non-principal payment (other than payments which are expressly designated as interest payments hereunder) as an expense, fee, or premium, rather than as interest; (b) exclude voluntary prepayments and the effect thereof; and (c) spread the total amount of interest throughout the entire contemplated term of this Promissory Note so that the interest rate is uniform throughout such term.

7. **Costs.** If this Promissory Note is placed in the hands of an attorney for collection, or if it is collected through any legal proceeding at law or in equity, or in bankruptcy, receivership or other court proceedings, Maker agrees to pay all reasonable costs of collection, including, but not limited to, court costs and reasonable attorneys' fees, including all costs of appeal.

8. **Notices.** All notices required under this Promissory Note shall be personally delivered or sent by first class mail, postage prepaid, or by overnight courier, to the addresses set forth below, or sent by facsimile to the fax numbers listed below, or to such other addresses as Maker or Payee may specify from time to time in writing. Notices and other communications shall be effective (a) if mailed, upon the earlier of receipt or five (5) days after deposit in the U.S. mail, first class, postage prepaid; (b) if telecopied, when transmitted; or (c) if hand-delivered, by courier or otherwise (including telegram, lettergram or mailgram), when delivered.

If to Maker: _____
_____
_____

If to Payee: _____
_____
_____

9. **Successor and Assigns.** This Promissory Note shall be binding upon and inure to the benefit of Maker and Payee and their respective successors, assigns, heirs and personal representatives, provided, however, that no obligations of Maker hereunder can be assigned without prior written consent of Payee, and Payee may not assign any party of this Promissory Note without the without prior written consent of Maker. Any attempted assignments in violation of this *Section 9* shall be null and void.

10. **GOVERNING LAW AND VENUE. THIS INSTRUMENT AND ALL ISSUES AND CLAIMS ARISING IN CONNECTION WITH OR RELATING TO THE INDEBTEDNESS EVIDENCED HEREBY, INCLUDING BUT WITHOUT LIMITATION, ALL CONTRACT,**

TORT, EQUITY, OR OTHER CLAIMS OR COUNTERCLAIMS AND ALL QUESTIONS INVOLVING USURY AND THE MAXIMUM RATE OF INTEREST WHICH MAY BE CONTRACTED FOR, CHARGED, OR RECEIVED SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. MAKER AND PAYEE HEREBY IRREVOCABLY (I) SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT SITTING IN DALLAS, TEXAS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY, AND (II) WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY DEFENSE ASSERTING AN INCONVENIENT FORUM IN CONNECTION THEREWITH.

11. JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HERETO HEREBY IRREVOCABLY AND EXPRESSLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY OF THIS PROMISSORY NOTE OR THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, OR THE ACTIONS OF MAKER OR PAYEE IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT THEREOF. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY MAKER AND PAYEE, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. MAKER AND PAYEE ARE HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS A CONCLUSIVE EVIDENCE OF THIS WAIVER BY MAKER AND PAYEE.

12. ENTIRETY. THE PROVISIONS OF THIS PROMISSORY NOTE MAY BE AMENDED OR REVISED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY MAKER AND PAYEE. THIS PROMISSORY NOTE EMBODIES THE FINAL, ENTIRE AGREEMENT OF MAKER AND PAYEE AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF MAKER AND PAYEE. THERE ARE NO ORAL AGREEMENTS BETWEEN MAKER AND PAYEE.

MAKER:

_____
[INSERT NAME]

Acknowledged by:

PAYEE:

By: _____
Name: _____
Title:

PDADV_004390

EXHIBIT G

FORM OF PROMISSORY NOTE

$_____ Dallas, Texas _____, 20__

FOR VALUE RECEIVED, the undersigned, Highland Capital Management, L.P., a Delaware limited partnership ("*Maker*"), hereby unconditionally promises to pay to the order of _____ ("*Payee*"), at _____, or such other address given to Maker by Payee, the principal sum of _____ Dollars ($_____), together with interest (calculated on the basis of a 365-day or 366-day year, as appropriate) on the unpaid principal balance from day to day remaining, computed from the date hereof until paid at the rate per annum that shall from day to day be equal to the lesser of (a) the Maximum Rate, or (b) the Applicable Federal Rate applicable to this Promissory Note on the date hereof [*based on maturity date of this Promissory Note*].

1. Definitions. When used in this Promissory Note, the following terms shall have the respective meanings specified herein or in the Section referred to:

"*Agency Agreement*" means the Agency Provisions set forth in *Section 9* of each Pledge Agreement.

"*Applicable Federal Rate*" has the meaning set forth in the United States Internal Revenue Code of 1986, as amended.

"*Business Day*" means a day upon which business is transacted by national banks in Dallas, Texas.

"*Buy-Sell Agreement*" means the Amended and Restated Buy-Sell and Redemption Agreement dated as of December 31, 2004, and executed by and among Highland Capital Management, LP and its Limited Partners (as defined therein).

"*Default*" has the meaning ascribed to it in Section 5 hereof.

"*Guarantor*" means a guarantor under the Guaranty.

"*Guaranty*" means that certain Limited Guaranty (as amended and modified from time to time), dated as of the date hereof, executed by [list each Guarantor] in favor of Agent (as defined in the Agency Agreement).

"*Loan Documents*" means this Promissory Note, the Guaranty, the Pledge Agreements, and any agreements, documents (and with respect to this Promissory Note, and such other agreements and documents, any modifications, amendments, renewals, extensions, or restatements thereof), or certificates at any time executed or delivered pursuant to the terms of this Promissory Note.

"*Maximum Rate*" means, with respect to the holder hereof, the highest non-usurious rate of interest, if any, permitted by applicable law on such day.

"*Obligation*" means all indebtedness, liabilities, and obligations, of every kind and character, of Maker, now or hereafter existing in favor of Payee arising under this Promissory Note and the Loan Documents.

2. Payment. The unpaid principal of and interest upon this Promissory Note shall be fully amortized and shall be due and payable as follows:

(a) _____ equal quarterly payments of principal in the amount of $_____ shall be due each quarter beginning on _____, 20___;

(b) Interest shall be calculated as set forth herein and payable quarterly at the same time as the payments of principal set forth in Section 2(a); and

(c) One final payment of the unpaid principal of, and accrued and unpaid interest on, this Promissory Note shall be due and payable upon _____, 20___.

All payments of principal and interest of this Promissory Note shall be made by Maker to Payee in federal or other immediately available funds. Payments made to Payee by Maker hereunder shall be applied first to accrued interest and then to principal.

Should the principal of, or any installment of the principal of or interest upon, this Promissory Note become due and payable on any day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day, and interest shall be payable with respect to such extension.

All past due principal of and, to the extent permitted by applicable law, interest upon this Promissory Note shall bear interest at the Maximum Rate.

3. Waivers. Maker and each surety, endorser, guarantor, and other party ever liable for payment of any sums of money payable upon this Promissory Note, jointly and severally waive presentment, demand, protest, notice of protest and non-payment or other notice of default, notice of acceleration, and intention to accelerate, or other notice of any kind, and agree that their liability under this Promissory Note shall not be affected by any renewal or extension in the time of payment hereof, or in any indulgences, or by any release or change in any security for the payment of this Promissory Note, and hereby consent to any and all renewals, extensions, indulgences, releases, or changes, regardless of the number of such renewals, extensions, indulgences, releases, or changes.

No waiver by Payee of any of its rights or remedies hereunder or under any other document evidencing or securing this Promissory Note or otherwise, shall be considered a waiver of any other subsequent right or remedy of Payee; no delay or omission in the exercise or enforcement by Payee of any rights or remedies shall ever be construed as a waiver of any right or remedy of Payee; and no exercise or enforcement of any such rights or remedies shall ever be held to exhaust any right or remedy of Payee.

4. Default and Remedies.

(a) A "*Default*" shall exist hereunder if any one or more of the following events shall occur and be continuing: (i) Maker shall fail to pay when due (A) any principal of, or interest upon, this Promissory Note or (B) any other Obligation, and any such failure under this subsection (i) continues for three (3) Business Days; (ii) any representation or warranty made by Maker (or one or more Guarantors whose aggregate Limited Guaranteed Obligations (as defined in the Guaranty) exceed thirty three percent (33%) of the total Guaranteed Obligations (as defined in the Guaranty)) under the Loan Documents shall prove to be untrue or inaccurate in any material respect; (iii) any default shall occur in the performance of any of the covenants or agreements of Maker (or one or more Guarantors whose aggregate Limited Guaranteed Obligations (as defined in the Guaranty) exceed thirty three percent (33%) of the total Guaranteed Obligations (as defined in the Guaranty)) under the Loan Documents and such

default continues for ten (10) Business Days after notice from Payee to Maker; (iv) Maker (or one or more Guarantors whose aggregate Limited Guaranteed Obligations (as defined in the Guaranty) exceed thirty three percent (33%) of the total Guaranteed Obligations (as defined in the Guaranty)) shall (A) apply for or consent to the appointment of a receiver, trustee, intervenor, custodian or liquidator of itself or of all or a substantial part of its assets, (B) be adjudicated a bankrupt or insolvent or file a voluntary petition for bankruptcy or admit in writing that it is unable to pay its debts as they become due, (C) make a general assignment for the benefit of creditors, (D) file a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy or insolvency laws, or (E) file an answer admitting the material allegations of, or consent to, or default in answering, a petition filed against it in any bankruptcy, reorganization or insolvency proceeding, or take corporate action for the purpose of effecting any of the foregoing; (v) an order, judgment or decree shall be entered by any court of competent jurisdiction or other competent authority approving a petition seeking reorganization of Maker or such Guarantor(s) or appointing a receiver, trustee, intervenor or liquidator of any such person, or of all or substantially all of its or their assets, and such order, judgment or decree shall continue unstayed and in effect for a period of sixty (60) days; (vi) Payee's liens, mortgages or security interests in any of the collateral for this Promissory Note or the Guaranty should become unenforceable, or cease to be first priority liens, mortgages or security interests; or (vii) a default shall exist and be continuing under any other promissory note executed by Maker pursuant to Section 14 of the Buy-Sell Agreement.

(b) Subject to *Section (c)* below, if Maker fails or refuses to pay any part of the principal of or interest upon this Promissory Note or the Obligation as the same become due, or upon the occurrence of any Default hereunder or under any other agreement or instrument securing or assuring the payment of this Promissory Note or executed in connection herewith, then in any such event the holder hereof may, at its option, (i) declare the entire unpaid balance of principal and accrued interest of the Obligation to be immediately due and payable *without presentment or notice of any kind which Maker* waives pursuant to Section 3 herein, (ii) reduce any claim to judgment, and/or (iii) pursue and enforce any of Payee's rights and remedies available pursuant to any applicable law or agreement including, without limitation, foreclosing all liens and security interests securing payment thereof or any part thereof.

(c) Notwithstanding any other provision in this Note, during the existence of a Default, Payee's right to (i) exercise any of its remedies hereunder, (ii) apply any funds received hereunder, and (iii) take any other actions hereunder, shall be subject to the provisions of the Agency Agreement.

5. **Voluntary Prepayment.** Maker reserves the right to prepay the outstanding principal balance of this Promissory Note, in whole or in part, at any time and from time to time, without premium or penalty. Any such prepayment shall be made together with payment of interest accrued on the amount of principal being prepaid through the date of such prepayment.

6. **Usury Laws.** Regardless of any provisions contained in this Promissory Note, Payee shall never be deemed to have contracted for or be entitled to receive, collect, or apply as interest on the Promissory Note, any amount in excess of the Maximum Rate, and, in the event Payee ever receives, collects, or applies as interest any such excess, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance of this Promissory Note, and, if the principal balance of this Promissory Note is paid in full, then any remaining excess shall forthwith be paid to Maker. In determining whether or not the interest paid or payable under any specific contingency exceeds the highest lawful rate, Maker and Payee shall, to the maximum extent permitted under applicable law, (a) characterize any non-principal payment (other than payments which are expressly designated as interest payments hereunder) as an expense, fee, or premium, rather than as interest, (b) exclude voluntary prepayments and the effect thereof, and (c) spread the total amount of interest

throughout the entire contemplated term of this Promissory Note so that the interest rate is uniform throughout such term.

7. Costs. If this Promissory Note is placed in the hands of an attorney for collection, or if it is collected through any legal proceeding at law or in equity, or in bankruptcy, receivership or other court proceedings, Maker agrees to pay all reasonable costs of collection, including, but not limited to, court costs and reasonable attorneys' fees, including all costs of appeal.

8. Notices. All notices required under this Promissory Note shall be personally delivered or sent by first class mail, postage prepaid, or by overnight courier, to the addresses set forth below, or sent by facsimile to the fax numbers listed below, or to such other addresses as Maker or Payee may specify from time to time in writing. Notices and other communications shall be effective (a) if mailed, upon the earlier of receipt or five (5) days after deposit in the U.S. mail, first class, postage prepaid, (b) if telecopied, when transmitted, or (c) if hand-delivered, by courier or otherwise (including telegram, lettergram or mailgram), when delivered.

If to Maker: _____
_____
_____

If to Payee: _____
_____
_____

9. Successor and Assigns. This Promissory Note shall be binding upon and inure to the benefit of Maker and Payee and their respective successors, assigns, heirs and personal representatives, provided, however, that no obligations of Maker hereunder can be assigned without prior written consent of Payee, and Payee may not assign any part of this Promissory Note without the without prior written consent of Maker. Any attempted assignment in violation of this *Section 9* shall be null and void.

10. GOVERNING LAW AND VENUE. THIS PROMISSORY NOTE AND ALL ISSUES AND CLAIMS ARISING IN CONNECTION WITH OR RELATING TO THE INDEBTEDNESS EVIDENCED HEREBY, INCLUDING BUT WITHOUT LIMITATION, ALL CONTRACT, TORT, EQUITY, OR OTHER CLAIMS OR COUNTERCLAIMS AND ALL QUESTIONS INVOLVING USURY AND THE MAXIMUM RATE OF INTEREST WHICH MAY BE CONTRACTED FOR, CHARGED, OR RECEIVED SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. MAKER AND PAYEE HEREBY IRREVOCABLY (I) SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT SITTING IN DALLAS, TEXAS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY, AND (II) WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY DEFENSE ASSERTING AN INCONVENIENT FORUM IN CONNECTION THEREWITH.

10. JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HERETO HEREBY IRREVOCABLY AND EXPRESSLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY OF THIS PROMISSORY NOTE OR THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, OR THE ACTIONS OF MAKER OR PAYEE IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT

THEREOF. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY MAKER AND PAYEE, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. MAKER AND PAYEE ARE HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS A CONCLUSIVE EVIDENCE OF THIS WAIVER BY MAKER AND PAYEE.

11. AMENDMENTS AND ENTIRETY. SUBJECT TO THE AGENCY AGREEMENT, THE PROVISIONS OF THIS PROMISSORY NOTE MAY BE AMENDED OR REVISED BY AN INSTRUMENT IN WRITING SIGNED BY MAKER AND PAYEE. THIS PROMISSORY NOTE AND ALL THE OTHER LOAN DOCUMENTS EMBODY THE FINAL, ENTIRE AGREEMENT OF MAKER AND PAYEE AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF MAKER AND PAYEE. THERE ARE NO ORAL AGREEMENTS BETWEEN MAKER AND PAYEE.

MAKER:

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc.,
its General Partner

By: _____
Name: _____
Title: _____

Acknowledged by:

PAYEE:

By: _____
Name: _____
Title: _____

EXHIBIT H

CONTINUING GUARANTY

FOR VALUE RECEIVED, the sufficiency of which is hereby acknowledged, and in consideration of the redemption or purchase by Highland Capital Management, L.P., a Delaware limited partnership (the "*Borrower*") of certain limited partnership interests owned by [list or schedule each note holder] (collectively the "*Lenders*"), each of the undersigned Guarantors being a limited partner in Borrower as of the date hereof (collectively, the "*Guarantor*") hereby severally, and not jointly, furnishes its limited guaranty of the Guaranteed Obligations (as hereinafter defined) as follows for the benefit of: _____, as Agent to the Lenders pursuant to the Agency Agreement (as defined below):

1. **Guaranty.**

(a) Subject to *Subsection (b)* below, each Guarantor hereby absolutely and unconditionally guarantees, as a guarantee of payment and not merely as a guarantee of collection, prompt payment upon the occurrence and existence a Default under any of the Notes (as defined below), and at all times thereafter, of any and all indebtedness and liabilities of every kind, nature and character, direct or indirect, absolute or contingent, liquidated or unliquidated, voluntary or involuntary, of the Borrower to the Lenders arising under those certain Promissory Notes dated _____ and executed by the Borrower in favor of the Lenders (as amended, modified, and restated from time to time, the "*Notes*") and all instruments, agreements and other documents of every kind and nature now or hereafter executed in connection with the Notes (including all renewals, extensions and modifications thereof and all costs, attorneys' fees and expenses incurred by the Lenders in connection with the collection or enforcement thereof) (collectively, the "*Guaranteed Obligations*"). This Guaranty shall not be affected by the genuineness, validity, regularity or enforceability of the Guaranteed Obligations or any instrument or agreement evidencing any Guaranteed Obligations; or by the existence, validity, enforceability, perfection, or extent of any collateral therefor, or by any fact or circumstance relating to the Guaranteed Obligations which might otherwise constitute a defense to the obligations of the Guarantor under this Guaranty.

(b) Notwithstanding any other provision of this Guaranty, the obligations of each Guarantor hereunder (each such obligation, the "*Limited Guaranteed Obligations*") shall be limited to the lesser of (i) an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance under Section 548 of the Bankruptcy Code (Title 11, United States Code) or any comparable provisions of any applicable state law, and (ii) for each Guarantor, an aggregate amount equal to the product of (A) the outstanding amount of the Guaranteed Obligations, times (B) the corresponding percentage of such Guarantor as set forth on Schedule A hereto [*Schedule A shall set forth the percentage of the limited partnership interest owned by each Guarantor in the Borrower as of the date of this Guaranty.*]

(c) To the extent that the Agent or any Lender receives any proceeds from the collateral pledged by a Guarantor in the Pledge Agreement dated as of the date of this Guaranty (as renewed, extended, amended or restated) executed by such Guarantor, the proceeds will be applied to reduce the Limited Guaranteed Obligations of such Guarantor as set forth in *paragraph 1(b)* above. Such Guarantor shall be given credit for all such amounts in reduction of its obligations to pay the Limited Guaranteed Obligations.

2. **No Setoff or Deductions; Taxes.** All payments by any Guarantor hereunder shall be paid in full, without setoff or counterclaim or any deduction or withholding whatsoever, including,

without limitation, for any and all present and future taxes. If notwithstanding the foregoing, any Guarantor makes a payment under this Guaranty to which withholding tax applies, or any taxes are at any time imposed on any payments under or in respect of this Guaranty including, but not limited to, payments made pursuant to this *Paragraph 2*, such Guarantor shall pay all such taxes to the relevant authority in accordance with applicable law such that the applicable Lender receives the sum it would have received had no such deduction or withholding been made and shall also pay to such Lender, on demand, all additional amounts which Agent specifies as necessary to preserve the after-tax yield the applicable Lender would have received if such taxes had not been imposed. Each Guarantor shall promptly provide Agent with an original receipt or certified copy issued by the relevant authority evidencing the payment of any such amount required to be deducted or withheld.

3. **No Termination.** This Guaranty is a continuing and irrevocable guaranty of all Guaranteed Obligations now or hereafter existing and shall remain in full force and effect until all Guaranteed Obligations and any other amounts payable under this Guaranty are paid and performed in full.

4. **Waiver of Notices.** Each Guarantor waives notice of the acceptance of this Guaranty and of the extension or continuation of the Guaranteed Obligations or any part thereof. Each Guarantor further waives presentment, protest, notice, dishonor or default, demand for payment and any other notices to which such Guarantor might otherwise be entitled.

5. **Subrogation.** No Guarantor shall exercise rights of subrogation, contribution or similar rights with respect to any payments such Guarantor makes under this Guaranty until all of the Guaranteed Obligations and any amounts payable under this Guaranty are paid and performed in full. If any amounts are paid to any Guarantor in violation of the foregoing limitation, then such amounts shall be held in trust for the benefit of the Lenders and shall forthwith be paid to Agent to reduce the amount of the Guaranteed Obligations, whether matured or unmatured.

6. **Waiver of Suretyship Defenses.** Each Guarantor agrees that Agent or any Lender may, at any time and from time to time, and without notice to the Guarantor, make any agreement with the Borrower or any other Guarantor or with any other person or entity liable on any of the Guaranteed Obligations or providing collateral as security for the Guaranteed Obligations, for the extension, renewal, payment, compromise, discharge or release of the Guaranteed Obligations or any collateral (in whole or in part), or for any modification or amendment of the terms thereof or of any instrument or agreement evidencing the Guaranteed Obligations or the provision of collateral, all without in any way impairing, releasing, discharging or otherwise affecting the obligations of such Guarantor under this Guaranty. Each Guarantor waives any defense arising by reason of any disability or other defense of the Borrower or any other guarantor, or the cessation from any cause whatsoever of the liability of the Borrower, or any claim that any Guarantor's obligations exceed or are more burdensome than those of the Borrower and waives the benefit of any statute of limitations affecting the liability of such Guarantor hereunder. Each Guarantor waives any right to enforce any remedy which Agent or any Lender now has or may hereafter have against the Borrower and waives any benefit of and any right to participate in any security now or hereafter held by the Agent or any Lender. Further, each Guarantor consents to the taking of, or failure to take, any action which might in any manner or to any extent vary the risks of such Guarantor under this Guaranty or which, but for this provision, might operate as a discharge of such Guarantor.

7. **Exhaustion of Other Remedies Not Required.** Subject to *Paragraph 2(b)* above, the obligations of each Guarantor hereunder are those of primary obligor, and not merely as surety, and are independent of the Guaranteed Obligations. Each Guarantor waives diligence by the Lenders and action on delinquency in respect of the Guaranteed Obligations or any part thereof, including, without limitation any provisions of law requiring Agent or any Lender to exhaust any right or remedy or to take any action against the Borrower, any other guarantor or any other person, entity or property before enforcing this

Guaranty against such Guarantor, including but not limited to the benefits of Chapter 34 of the Texas Business and Commerce Code, §17.001 of the Texas Civil Practice and Remedies Code, and Rule 31 of the Texas Rules of Civil Procedure, or any similar statute.

8. **Reinstatement.** Notwithstanding anything in this Guaranty to the contrary, this Guaranty shall continue to be effective or be reinstated, as the case may be, against any Guarantor if at any time any payment of any portion of such Guarantor's Limited Guaranteed Obligations is revoked, terminated, rescinded or reduced or must otherwise be restored or returned upon the insolvency, bankruptcy or reorganization of the Borrower or any other person or entity or otherwise, as if such payment had not been made and whether or not any Lender is in possession of or has released this Guaranty and regardless of any prior revocation, rescission, termination or reduction.

9. **Subordination.** Upon the occurrence and continuance of a Default under the Notes, each Guarantor shall subordinate the payment of all obligations and indebtedness of the Borrower owing to such Guarantor, whether now existing or hereafter arising, including but not limited to any obligation of the Borrower to such Guarantor as subrogee of the Lenders or resulting from such Guarantor's performance under this Guaranty, to the payment in full of all Guaranteed Obligations. If the Agent or any Lender so requests, any such obligation or indebtedness of the Borrower to any Guarantor shall be enforced and performance received by such Guarantor as trustee for the Lenders and the proceeds thereof shall be paid over to the Agent on account of the Guaranteed Obligations, but without reducing or affecting in any manner the liability of such Guarantor under this Guaranty.

10. **Information.** Each Guarantor agrees to furnish promptly to the Agent or any Lender any and all financial or other information regarding such Guarantor as such party may reasonably request in writing.

11. **Stay of Acceleration.** In the event that acceleration of the time for payment of any of the Guaranteed Obligations is stayed, upon the insolvency, bankruptcy or reorganization of the Borrower, all such amounts shall nonetheless be payable by each Guarantor immediately upon demand by Agent.

12. **Expenses.** Guarantors shall pay on demand to Agent all out-of-pocket expenses (including reasonable attorneys' fees and expenses and the allocated cost and disbursements of internal legal counsel) in any way relating to the enforcement or protection of any Lender's rights under this Guaranty, including any incurred in the preservation, protection or enforcement of any rights of such Lender in any case commenced by or against any Guarantor under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute. The obligations of any Guarantor under the preceding sentence shall survive termination of this Guaranty.

13. **Amendments.** No provision of this Guaranty may be waived, amended, supplemented or modified, *unless* consented to in writing by each Lender, Agent and each Guarantor.

14. **No Waiver; Enforceability.** No failure by Agent or any Lender to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy or power hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law or in equity. The unenforceability or invalidity of any provision of this Guaranty shall not affect the enforceability or validity of any other provision herein.

15. **Assignment; Governing Laws; Jurisdiction.** This Guaranty shall (a) bind each Guarantor and its successors and assigns, *provided that* such Guarantor may not assign its rights or obligations under this Guaranty without the prior written consent of Agent (and any attempted assignment without such consent shall be void), (b) inure to the benefit of Agent and its successors and assigns

provided that that no obligations of any Guarantor hereunder can be assigned without prior written consent of Agent, and Agent and the Lenders may not assign this Guaranty without the without prior written consent of each Guarantor, and (c) be governed by the internal laws of the State of Texas. Any attempted assignments in violation of this ***Section 9*** shall be null and void. Each Guarantor hereby irrevocably (i) submits to the non-exclusive jurisdiction of any United States Federal or State court sitting in Dallas, Texas in any action or proceeding arising out of or relating to this Guaranty, and (ii) waives to the fullest extent permitted by law any defense asserting an inconvenient forum in connection therewith. Service of process by Agent in connection with such action or proceeding shall be binding on the applicable Guarantor if sent to such Guarantor by registered or certified mail at its address specified below.

16. **Condition of the Borrower.** Each Guarantor acknowledges and agrees that it has the sole responsibility for, and has adequate means of, obtaining from the Borrower such information concerning the financial condition, business and operations of the Borrower as such Guarantor requires, and that the Lenders have no duty, and such Guarantor is not relying on the Lenders at any time, to disclose to such Guarantor any information relating to the business, operations or financial condition of the Borrower.

17. **Setoff.** If and to the extent any payment is not made when due hereunder, Agent may setoff and charge from time to time any amount so due against any or all of the Guarantor's accounts or deposits with Agent or any Lender.

18. **Other Guarantees.** Unless otherwise agreed by Agent and the Guarantor in writing, this Guaranty is not intended to supersede or otherwise affect any other guaranty now or hereafter given by the Guarantor for the benefit of the Lenders or any term or provision thereof.

19. **Representations and Warranties.** Each Guarantor represents and warrants that (i) this Guaranty constitutes its legal, valid and binding obligation enforceable in accordance with its terms; (ii) the making and performance of this Guaranty does not and will not violate the provisions of any applicable law, regulation or order, and does not and will not result in the breach of, or constitute a default or require any consent under, any material agreement, instrument, or document to which it is a party or by which it or any of its property may be bound or affected, unless such violation, conflict, or default would not have a material adverse effect on such Guarantor or this Guaranty; (iii) all material consents, approvals, licenses and authorizations of, and filings and registrations with, any governmental authority required under applicable law and regulations for the making and performance of this Guaranty by such Guarantor have been obtained or made and are in full force and effect, unless the failure to obtain such consents, approvals, or licenses would not have a material adverse effect on such Guarantor or this Guaranty; and (iv) by virtue of its relationship with the Borrower, the execution, delivery and performance of this Guaranty is for the direct benefit of such Guarantor and it has received adequate consideration for this Guaranty.

20. **Agency Agreement.** Notwithstanding any other provision herein, all rights and actions of Agent and Lenders hereunder and the application of all funds collected hereunder are subject to ***Section 9*** of each Pledge Agreement dated the date hereof and executed by a Guarantor, Agent and the Lenders (the "***Agency Agreement***").

21. **WAIVER OF JURY TRIAL; FINAL AGREEMENT.** TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE GUARANTORS AND AGENT EACH WAIVE TRIAL BY JURY WITH RESPECT TO ANY ACTION, CLAIM, SUIT OR PROCEEDING ON OR ARISING OUT OF THIS GUARANTY. THIS GUARANTY REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS

BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Executed this ___ day of _____, ____.

[NAMES OF THE GUARANTORS]

Addresses for Guarantors: _____

_____

_____

_____

ACKNOWLEDGED BY AGENT:

By: _____

Name: _____

Title: _____

EXHIBIT A
TO GUARANTY

Name of Guarantor	Percentage for Guarantor

EXHIBIT I

PARTNERSHIP INTEREST PLEDGE AGREEMENT

THIS PARTNERSHIP INTEREST PLEDGE AGREEMENT (the "*Pledge Agreement*") is made effective as of _____, 20___, by _____ ("*Pledgor*"), in favor of _____ (the "*Agent*") as Agent for the benefit of the Lenders *[Agent to be appointed by the Lenders and shall be the same Agent in each Agreement]*.

WITNESETH

1. Each Pledgor is the owner of the limited partnership interests in Highland Capital Management, L.P., a Delaware limited partnership (the "*Partnership*") set forth on Schedule 1 attached hereto (all of such interest being herein referred to as the "*Partnership Interest*").

2. The Partnership has entered into certain Promissory Notes, dated _____, 20___ (as amended, supplemented, or restated from time-to-time, the "*Note*"), in favor of the Lenders, pursuant to which the Partnership has evidenced its obligation to pay the unpaid portion of the purchase price for certain limited partnership interests acquired from former limited partners of the Partnership, including the Lenders (the "*Loans*"), in the aggregate original principal amount of $_____.

3. Pledgor has executed a certain Limited Guaranty, dated the date hereof, in favor of Lenders to guarantee the payment of the Notes on the terms set forth therein (the "*Limited Guaranty*").

4. Pledgor wishes to provide collateral security for the Secured Indebtedness (as hereinafter defined) in the form of a pledge of the Pledged Collateral (as hereinafter defined), as required by the Note.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and the direct and indirect material benefit to be received by Pledgor by reason of the Notes, which benefit is hereby expressly acknowledged by Pledgor, the parties hereto agree as follows:

Section 1. Defined Terms. Capitalized terms used herein which are defined in the Notes shall have the same meanings when used herein *unless* the context hereof shall otherwise require or provide. In addition, for the purposes of this Pledge Agreement, the following terms shall have the respective meanings assigned to them in this Section 1:

"*Code*" shall have the meaning set forth in Section 7 hereof.

"*Lenders*" shall mean the payees under each of the Notes.

"*Limited Guaranteed Obligations*" shall have the meaning assigned to it in the Guaranty.

"*Loan Documents*" shall mean the Notes, the Guaranty, and this Pledge Agreement and any agreements, documents (any modifications, amendments, renewals, extensions, or restatements thereof), or certificates at any time executed or delivered pursuant to the terms of thereof.

"*Notes*" shall have the meaning assigned to it in the recitals.

"*Obligations*" means any and all indebtedness and liabilities of every kind, nature and character, direct or indirect, absolute or contingent, liquidated or unliquidated, voluntary or involuntary, of the Partnership to the Lenders arising under the Notes and the other Loan Documents.

"*Pledged Collateral*" shall have the meaning assigned to it in Section 2 hereof.

"*Pledged Interest*" means all limited partnership interests of Pledgor now owned or hereafter acquired by Pledgor.

"*Percentage Interest*" shall mean, at the time of measurement, the ratio, expressed as a percentage, of (a) the outstanding principal amount of the Obligations held by such Lender plus accrued interest to (b) the aggregate outstanding principal amount of all Obligations plus accrued interest.

"*Required Lenders*" shall mean, as of any date of determination, the Lenders holding not less than 66% of the outstanding principal amount of the aggregate Obligations plus accrued interest on such outstanding principal amount.

"*Secured Indebtedness*" shall mean all indebtedness, obligations, and liabilities described or referred to in clauses (a) through (c) immediately below:

(a) the Limited Guaranteed Obligations of Pledgor;

(b) all reasonable fees and expenses incurred by Agent to preserve and maintain the Pledged Collateral; and

(c) all extensions, renewals, amendments, and modifications of any of the foregoing.

Section 2. Pledge. As collateral security for the payment and performance of the Secured Indebtedness, Pledgor hereby pledges, hypothecates, assigns, transfers, sets over, and delivers unto Agent, for the benefit of Lenders, and hereby grants Agent a lien and security interest in, the following:

(a) the Pledged Interest and any certificate(s) representing the Pledged Interest, and all cash, securities, dividends, increases, distributions, and profits received therefrom or in connection therewith, including distributions or payments in partial or complete liquidation or redemption, or as a result of reclassifications, readjustments, reorganizations, or changes in the capital structure of the Partnership thereof, and any other property at any time and from time-to-time received, receivable, or otherwise distributed or delivered to Agent, and all rights and privileges pertaining thereto;

(b) all securities hereafter delivered to Agent in substitution for, or in addition to, any of the foregoing, all certificates representing or evidencing such securities, and all cash, securities, instruments, documents, dividends, increases, distributions, and profits received therefrom, and any other property at any time and from time-to-time received by, receivable by, or otherwise distributed or delivered to Agent in respect of or in exchange for any or all of the property described; and

(c) all products and proceeds of the foregoing and all general intangibles and contract rights related thereto, including without limitation, all revenues, distributions, dividends, property, registration rights, contract rights, and other rights and interests that Pledgor is, or may hereafter become, entitled to receive on account of any collateral described in Sections 2(a) and (b);

(all such Pledged Interest, certificates, securities, instruments, documents, dividends, increases, distributions, profits, intangibles, contract rights, and other property being herein collectively called the "*Pledged Collateral*"). Pledgor shall forthwith deliver to Agent all subscriptions, warrants, options, and all such other rights, and upon delivery to Agent, Agent shall hold such subscriptions, warrants, options and other rights as additional collateral pledged to secure the Secured Indebtedness;

TO HAVE AND TO HOLD the Pledged Collateral, together with all rights, titles, interests, privileges, and preferences appertaining to or incidental thereto, unto Agent, its successors, and assigns, forever subject, however, to the terms, covenants, and conditions hereafter set forth.

Section 3. Agent As Custodian. Agent shall have physical possession of the certificates or instruments, if any, representing or evidencing the Pledged Collateral. Pledgor agrees that either (a) all certificates representing the Pledged Interest shall be registered in the appropriate partnership record books in the name of Agent and such registration shall reflect that the registered owner is acting as agent on behalf of lenders, or (b) in lieu of or, at Agent's option, in addition to presently registering the Pledged Collateral in the name of Agent, Pledgor will deposit with Agent, along with the certificates or instruments representing or evidencing the Pledged Collateral, duly executed powers in favor of Agent. In addition, Agent shall at all times have the right to exchange certificates or instruments representing or evidencing the Pledged Collateral for certificates or instruments of smaller or larger denominations for any purpose consistent with its performance of this Pledge Agreement.

Section 4. Representations and Warranties. Pledgor hereby represents and warrants that: (a) Pledgor is the sole legal and beneficial owner of the Pledged Collateral free and clear of all liens, charges, pledges, encumbrances, and security interests of every kind and nature, other than liens and security interests in favor of Agent; (b) the Pledged Interest has been validly authorized, issued, and is fully paid and nonassessable; (c) Pledgor has good right and lawful authority to pledge the Pledged Collateral in the manner hereby done or contemplated; (d) no material consent or approval of any governmental authority, or of any securities exchange, is necessary to effect the validity of the rights created hereunder which have not been obtained; (e) *except* for any financing statement which may have been filed by Agent, no financing statement covering the Pledged Collateral, or any part thereof, has been filed with any filing officer or office; (f) no security agreement covering the Pledged Collateral, or any part thereof, has been made and no security interest, other than the one herein created, has attached or been perfected in the Pledged Collateral or any part thereof; (g) the execution, delivery, and consummation of this Pledge Agreement will not violate the charter or bylaws or other similar governing document of Pledgor (if applicable) or any law, regulation, mortgage, indenture, contract, instrument, judgment, or decree applicable to or binding on Pledgor or the issuers of the Pledged Collateral, unless such violation would not have a material adverse effect on Pledgor or this Pledge Agreement; (h) the Pledged Interest constitutes Pledgor's entire ownership interest in all of the issued and outstanding equity interests in the Partnership; and (i) the information contained in all forms or other statements given to Agent by Pledgor is true, complete, and accurate in all material respects; and Pledgor will immediately notify Agent of any change in such information. The delivery at any time by Pledgor to Agent of additional Pledged Collateral shall constitute a representation and warranty by Pledgor that, with respect to such Pledged Collateral and each item thereof, the matters heretofore warranted in clauses (a) through (i) immediately above are true and correct in all material respects at, and as if they were made at, the date of such delivery.

Section 5. Covenants.

(a) Additional Documents and Information. Pledgor covenants and agrees to: (i) From time-to-time promptly execute and deliver to Agent all such stock powers, assignments, certificates, supplemental writings, financing statements, and other items and do all other acts or things as Agent may reasonably request in order more fully to evidence and perfect the interest of Agent in the

Pledged Collateral; (ii) punctually and properly perform all of Pledgor's covenants and duties under any other security agreement, deed of trust, collateral pledge agreement, or contract of any kind now or hereafter existing as security for or in connection with payment of the Secured Indebtedness (to the extent liable thereon) in accordance with the terms hereof; (iii) promptly furnish Agent with any information or writings which Agent may reasonably request concerning the Pledged Collateral or the Partnership, including, without limitation, all material non-public information; (iv) allow Agent to inspect all records of Pledgor relating to the Pledged Collateral or to the Secured Indebtedness, and to make and take away copies of such records; (v) promptly notify Agent of any material change in any fact or circumstance warranted or represented by Pledgor in this Pledge Agreement or in any other writing furnished by Pledgor to Agent in connection with the Pledged Collateral or the Secured Indebtedness; (vi) promptly notify Agent of any claim, action, or proceeding affecting title to the Pledged Collateral, or any part thereof, or the security interest therein, and, at the request of Agent, appear in and defend, at Pledgor's expense, any such action or proceeding; and (vii) promptly, after being requested by Agent, pay to Agent the amount of all reasonable expenses, including reasonable attorneys' fees and other legal expenses, incurred by Agent in perfecting, maintaining, and enforcing the security interest.

(b) Proceeds. Should the Pledged Collateral, or any part thereof, ever be in any manner converted by the Partnership or maker into another type of property, or any money or other proceeds ever be paid or delivered to Pledgor as a result of Pledgor's rights in the Pledged Collateral, then, in any such event, all such property, money, and other proceeds, *except* only ordinary cash dividends (*unless* and until payable to Agent pursuant to Section 6(c) hereof), shall become part of the Pledged Collateral and shall be delivered to Agent by such Pledgor.

(c) Performance by Agent. During the occurrence and continuation of a Default under any Note, should any covenant, duty, or agreement of Pledgor fail to be performed in accordance with its terms hereunder, Agent may, but shall never be obligated to, perform or attempt to perform such covenant, duty, or agreement on behalf of Pledgor, and any amount expended by Agent in such performance or attempted performance shall become a part of the Secured Indebtedness. At the request of Agent, Pledgor agrees to pay such amount promptly to Agent at Agent's office in Dallas, Texas, together with interest thereon at the rate provided in the Note.

(d) Negative Covenants. Pledgor covenants and agrees that, without the prior written consent of Agent, Pledgor will not: (i) sell, assign, or transfer any rights of Pledgor in the Pledged Collateral; (ii) grant any options or other rights in the Pledged Collateral; (iii) create any other lien or security interest in, mortgage, or otherwise encumber the Pledged Collateral, or any part thereof, or permit the same to be or become subject to any lien, attachment, execution, sequestration, other legal or equitable process, or any encumbrance of any kind or character, *except* the security interest herein created; (iv) vote for, consent to, or permit any amendment of the charter, partnership agreement, limited liability agreement, or any other governing agreement of the Partnership that could materially adversely affect the value of the Pledged Collateral; (v) permit the Partnership of the Pledged Interest to merge or consolidate with or into any corporation or other person, unless the Partnership is the surviving entity; and (vi) vote for, consent to, or permit (A) any transfer of interest in, or change in ownership of, the Partnership, or (B) any other changes in the capital structure of the Partnership to the extent any such action described in this *subsection (vi)* could materially adversely affect the value of the Pledged Collateral.

Section 6. Voting Rights; Dividends, Etc., Prior to Default.

(a) Rights Prior to Default. So long as no Default exists under any Note and Agent shall not have given written notice to Pledgor of its intention to foreclose upon or otherwise dispose of the Pledged Collateral, or to exercise its voting rights pertaining to the Pledged Collateral:

(i) Pledgor shall be entitled to exercise any and all voting and/or consensual rights and powers relating or pertaining to the Pledged Collateral or any part thereof for any purpose not inconsistent with the terms of this Pledge Agreement; *provided, however,* that Pledgor shall not exercise or refrain from exercising any such right or power if such action would have a material adverse effect on the value of the Pledged Collateral or any part thereof.

(ii) Agent shall execute and deliver (or cause to be executed and delivered) to Pledgor all such proxies, powers of attorney, dividend orders, and other instruments as Pledgor may request for the purpose of enabling Pledgor to exercise the voting and/or consensual rights and powers which it is entitled to exercise pursuant to Section 6(a)(i) above.

(b) Termination of Rights. Upon (i) the occurrence and during the continuance of a Default under any Note, and (ii) the giving of written notice by Agent to Pledgor of its intention to (A) foreclose upon or otherwise dispose of the Pledged Collateral or (B) exercise its voting rights pertaining to the Pledged Collateral, all rights of Pledgor to exercise the voting and/or consensual rights and powers which it is entitled to exercise pursuant to Section 6(a)(i) hereof shall cease, at the option of Agent, and all such rights shall thereupon become vested in Agent, who shall have the sole and exclusive right and authority to exercise such voting and/or consensual rights. Further, Agent shall have the right, at any time during the existence of a Default, to notify and direct the Partnership of the Pledged Collateral to thereafter make all payments, dividends, and any other distributions payable in respect thereof directly to Agent. The Partnership of the Pledged Collateral making any such payment or distribution to Agent hereunder shall be fully protected in relying on the written statement of Agent that it then holds a security interest which entitles it to receive such payments and distributions. Any and all money and other property paid over to or received by Agent pursuant to the provisions of this Section 6(b) shall be retained by Agent as additional collateral hereunder and may be applied (and upon Pledgor's written request all cash shall promptly be applied) in accordance with the provisions hereof.

(c) Distributions. Upon the occurrence and during the continuance of a Default under any of the Notes, all cash distributions, returns of capital, or other similar distributions made on or in respect of the Pledged Collateral, whether resulting from a subdivision, combination, or reclassification of the outstanding capital or other ownership interests of the Partnership, received in exchange for Pledged Collateral or any part thereof, or as a result of any merger, consolidation, acquisition, or other exchange of assets to which the Partnership may be a party or otherwise, and any and all cash and other property received in exchange for the Pledged Collateral, or received in payment of the principal of or in redemption of the Pledged Collateral, shall be paid or delivered to Agent.

Section 7. Rights and Remedies of Agent Upon and After Default.

(a) Remedies. Upon the occurrence of a Default under any of the Notes, in addition to any and all other rights and remedies which Agent may then have hereunder, under other contracts or agreements between Pledgor and Agent, under applicable law, or under the Uniform Commercial Code as in effect in the State of Texas (hereinafter called "*Code*"), or otherwise, Agent may, subject to Section 9 hereof, at its option: (i) declare the entire unpaid balance of principal and all accrued interest on the Secured Indebtedness immediately due and payable, without written notice of demand, notice of intent to accelerate, notice of acceleration, or presentment, all of which are hereby waived; (ii) reduce its claim to judgment, foreclose, or otherwise enforce its security interest in all or any part of the Pledged Collateral by any available judicial procedure; (iii) after notification, if any, expressly provided for herein, sell or otherwise dispose of, at the office of Agent or elsewhere, as chosen by Agent, all or any part of the Pledged Collateral, and any such sale or other disposition may be as a unit or in parcels, by public or private proceedings, and by way of one or more contracts (it being agreed that the sale of any part of the Pledged Collateral shall not exhaust Agent's power of sale, but sales may be made from time-to-time until all of the Pledged Collateral has been sold or until the Secured Indebtedness has been paid in full;

provided, however that Agent shall have no obligation to sell the Pledged Collateral piecemeal, it being specifically acknowledged that a sale of all of the Pledged Collateral to one purchaser in a single transaction shall be conclusively presumed to be commercially reasonable), and at any such sale it shall not be necessary to exhibit the Pledged Collateral; (iv) at its discretion, retain the Pledged Collateral in satisfaction of the Secured Indebtedness whenever the circumstances are such that Agent is entitled to do so under the Code; (v) purchase the Pledged Collateral at any public sale in accordance with the Code; (vi) purchase the Pledged Collateral at any private sale in accordance with the Code; and (vii) exercise the rights set forth in this Section 7 in accordance with the Code.

(b) Sale of Pledged Collateral. Agent is authorized at any sale of the Pledged Collateral, if it deems it advisable, to restrict the prospective bidders or purchasers to those persons who will represent and agree that they are purchasing for their own account, for investment, and not with a view to distribution or sale of any of the Pledged Collateral. Upon any such sale, Agent shall have the right to deliver, assign, and transfer to the purchaser thereof the Pledged Collateral so sold. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right of whatsoever kind, including any equity or right of redemption of Pledgor which hereby specifically waives, to the fullest extent permitted by applicable law, all rights of redemption, stay, or appraisal which it has or may have under any rule of law or statute now existing or hereafter adopted, and such waiver shall be deemed to have been made after default. Agent shall give Pledgor ten (10) days' written notice of its intention to make any such public or private sale or sale at broker's board or on a securities exchange. Such notice, in case of sale at broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Pledged Collateral, or that portion thereof so being sold, which will first be offered for sale at such board or exchange. Agent shall have no obligation to disclose or provide any information concerning the Partnership or the Pledged Collateral to prospective purchasers of the Pledged Collateral other than information in its possession at such time, and Pledgor agrees and acknowledges that it shall be commercially reasonable for any notices of any such sale, published or otherwise, to specifically so state. At any such sale the Pledged Collateral may be sold in one lot as an entirety or in separate parcels, as Agent may elect, and any such election shall be presumed to be commercially reasonable. Agent shall not be obligated to make any such sale pursuant to any such notice. Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time-to-time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the same may be so adjourned. In case of any sale of all or any part of the Pledged Collateral on credit or for future delivery, the Pledged Collateral so sold may be retained by Agent until the selling price is paid by the purchaser thereof, but Agent shall not incur any liability in case of the failure of such purchaser to take and pay for the Pledged Collateral so sold, and, in case of any such failure, such Pledged Collateral may again be sold upon like notice. Agent may also, at its discretion, proceed by a suit or suits at law or in equity to foreclose the pledge and sell the Pledged Collateral, or any portion thereof, under a judgment or decree of a court or courts of competent jurisdiction. If any consent, approval, or authorization of any state, municipal, or other governmental department, agency, or authority should be necessary to effectuate any sale or other disposition of the Pledged Collateral, or any partial disposition of the Pledged Collateral, each Pledgor will execute all such applications and other instruments as may be required in connection with securing any such consent, approval, or authorization, and will otherwise use its best efforts to secure the same.

(c) Possible Restrictions on Sale of Pledged Collateral. Because of the Securities Act of 1933, as amended (the "*Securities Act*"), or any other applicable laws or regulations, there may be legal restrictions or limitations affecting Agent in any attempts to dispose of certain portions of the Pledged Collateral in the enforcement of its rights and remedies hereunder. For these reasons Agent is hereby authorized by Pledgor, but not obligated, in the event of any Default hereunder giving rise to Agent's rights, to sell or otherwise dispose of the Pledged Collateral, and after the giving of any notices required herein, to sell all or any part of the Pledged Collateral at a private sale, subject to an investment letter or in any other manner which will not require the Pledged Collateral, or any part thereof, to be

registered in accordance with the Securities Act, as amended, or other applicable rules and regulations promulgated thereunder, or any other law or regulation, at the best price reasonably obtainable by Agent at any such private sale or other disposition in the manner mentioned above, and Pledgor specifically acknowledges that any such disposition shall be commercially reasonable under the Code. Agent is also hereby authorized by Pledgor, but not obligated, to take such actions, give such notices, obtain such consents, and do such other things as Pledgor may deem required or appropriate in the event of a sale or disposition of any of the Pledged Collateral. Pledgor clearly understands that Agent may at its discretion approach a restricted number of potential purchasers and that a sale under such circumstances may yield a lower price for the Pledged Collateral, or any part or parts thereof, than would otherwise be obtainable if same were registered and sold in the open market. Pledgor agrees (i) in the event Agent shall, upon a Default hereunder, sell the Pledged Collateral, or any portion thereof, at such private sale or sales, Agent shall have the right to rely upon the advice and opinion of any member firm of a National Security Exchange (as defined in the Securities Exchange Act of 1934) or other business or stock valuation company as to the best price reasonably obtainable upon such private sale thereof, and (ii) that such reliance shall be conclusive evidence that Agent handled such matter in a commercially reasonable manner under the Code.

(d) Notification. Reasonable notification of the time and place of any public sale of the Pledged Collateral, or reasonable notification of the time after which any private sale or other intended disposition of the Pledged Collateral is to be made, shall be sent to Pledgor and to any other person entitled under the Code to notice; *provided, that* if the Pledged Collateral threatens to decline quickly in value or is of a type customarily sold on a recognized market, Agent may sell or otherwise dispose of the Pledged Collateral without notification, advertisement, or other notice of any kind. It is agreed that notice sent or given not less than ten (10) calendar days prior to the taking of the action to which the notice relates is reasonable notification and notice for the purpose of this Pledge Agreement.

(e) Application of Proceeds. Upon the maturity of any instrument evidencing the Secured Indebtedness or any part thereof, whether such maturity be by such terms of such instruments or through the exercise of any power of acceleration, Agent is authorized and empowered to apply any and all funds realized from the sale of the Pledged Collateral not previously credited against the Secured Indebtedness first, toward the payment of the costs, charges, and expenses, if any, incurred in the collection of such funds hereunder, and then, toward the payment (in such order as Agent shall elect) of the Secured Indebtedness, and shall pay any balance remaining to Pledgor or as prescribed by the Code.

(f) Notices. In the event that any notice is required to be given to Pledgor with respect to any sale or liquidation of the Pledged Collateral, any notice addressed to Pledgor at the address set forth in Section 11(f) below, postage prepaid, deposited in the United States mail ten (10) days prior to the date of any such intended action shall be deemed to be a sufficient and commercially reasonable notice. Nothing contained herein shall prevent Agent from giving notice in any other manner which is considered reasonable.

Section 8. Agent Appointed Attorney-in-Fact. Pledgor hereby appoints Agent as Pledgor's attorney-in-fact for the purpose of carrying out the provisions of this Pledge Agreement and taking any action and executing any instrument which Agent may deem reasonably necessary or advisable to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, upon the occurrence and during the continuance of a Default under any Note, Agent shall have the right and power, *except* and to the extent otherwise provided in Section 6(a)(ii), to receive, endorse, and collect all checks and other orders for the payment of money made payable to Pledgor representing any dividend or other distribution payable or distributable in respect of the Pledged Collateral, or any part thereof, and to give full discharge for the same.

Section 9. Agency Agreement.

(a) Pari Passu Liens. The liens of all the Lenders upon the Pledged Collateral shall rank pari passu.

(b) The Agent.

(i) Appointment and Authorization. Agent hereby declares, and Pledgor and each Lender agree, that Agent holds the right, title and interest of Agent in, to and under each of the Pledge Agreements for the ratable benefit of Lenders as provided herein. By acceptance of the benefits of this Agreement and the other Loan Documents, each Lender (A) consents to the appointment of Agent, as agent hereunder and under the Guaranty, and grants Agent all rights and powers necessary for Agent to perform its obligations hereunder and under the Guaranty, (B) agrees that there shall be only one Agent under the Loan Documents; (C) agrees that upon the occurrence and during the continuance a Default under any Note, subject to subsection (ii) below, Lender shall have the exclusive authority to exercise on behalf of the applicable Lender any rights and remedies such Lender may have under the applicable Note; and (D) confirms that Agent shall have the authority to act as the exclusive agent of each Lender to take any action on behalf of the Lenders contemplated under the Pledge Agreements, the Notes (to the extent a Default under any Note has occurred), and the Guaranty.

(ii) Action Following Default.

(A) So long any Obligations are outstanding, each of the Lenders, hereby for itself, its successors and assigns, severally agrees that no individual Lender shall have the right to foreclose upon or exercise any rights or remedies with respect to the Pledged Collateral or under the Loan Documents, except to the extent set forth in this *Section 9*. Agent, hereby for itself, its successors and assigns, agrees that it shall not have the right to foreclose upon or exercise any rights or remedies in respect of the Pledged Collateral or under any Loan Documents in a manner inconsistent with, or otherwise contrary to the terms of, this *Section 9*.

(B) The Agent (x) shall not exercise any rights or remedies granted to it under any of the Loan Documents, or otherwise available to it at law or in equity, without the approval of the Required Lenders and (y) upon the direction of the Required Lenders, shall exercise such rights and remedies as so directed. The Agent shall incur no liability under or in respect of this Pledge Agreement or the Loan Documents by acting upon any notice, consent, certificate, warranty or other paper or instrument believed by it to be genuine or authentic or to be signed by the proper party on parties, or with respect to anything that it may do or refrain from doing in the reasonable exercise of its judgment, or that may seem to it to be necessary or desirable under the circumstances.

(C) Agent shall have the sole authority to waive any Defaults under any of the Loan Documents or enter into any forbearance agreements with the Partnership or any Guarantor solely upon the direction of the Required Lenders.

(D) Nothing set forth herein shall be construed to qualify or otherwise limit the right of any Lender to declare such Lender's Obligations to be due and payable in accordance with the Note of such Lender, *provided that* no such Lender shall be entitled to exercise any other right or remedy with respect to Note, the Guaranty, the Pledge Agreement, the Pledged Collateral, or any other Loan Document except in accordance with the provisions of this *Section 9*.

(iii) Indemnification of Agent by Lenders. The Lenders agree to indemnify the Agent (to the extent not reimbursed by Pledgor or the Partnership) ratably according to the respective amounts of the Obligations originally held by each of the Lenders, from and against any and all liabilities,

obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by or asserted against the Agent in any way relating to anything the Agent does in accordance with the express requirements of this Pledge Agreement or otherwise at the request of the Required Lenders.

(iv) Resignation or Removal of Agent. Subject to the appointment and acceptance of a successor Agent as provided below, the Agent may (i) resign at any time by giving five (5) days' written notice thereof to the Lenders and Pledgor or (ii) be removed by the Required Lenders with or without cause upon five (5) days' written notice to the Agent. Upon any such resignation or removal, the Required Lenders shall have the right to appoint a successor Agent. In the case of resignation by the Agent, if no successor Agent shall have been so appointed and shall have accepted such appointment within thirty (30) days after the retiring Agent's notice of resignation, then the retiring Agent may, on behalf of the Lenders, appoint an interim successor Agent. Any interim successor Agent appointed under the preceding sentence may be replaced at any time by a successor Agent designated by the Required Lenders.

(c) Application of Proceeds of the Pledged Collateral.

(i) Upon (i) the receipt by the Agent under any of the Loan Documents of any insurance or condemnation proceeds arising from the Pledged Collateral, (ii) the receipt by the Agent or any Lender of any funds during the existence of a Default, or (iii) the exercise of any rights or remedies by the Agent under this Pledge Agreement or any of the Loan Documents, any and all proceeds from the sale, foreclosure or other disposition of the Pledged Collateral, including in a bankruptcy or other insolvency proceeding, shall, promptly following their receipt by the Agent, be applied and distributed by the Agent as follows:

(A) First, to the payments of all costs, expenses, liabilities and advances made or incurred by the Agent (in its capacity as Agent and not individually) in connection with such proceedings, adjustments, sale, foreclosure or other disposition and in performing its duties under this Pledge Agreement, including compensation payable to the Agent and the costs, expenses and compensation of agents and legal counsel to the Agent;

(B) Second, to the extent any proceeds remain after payment in full of those items specified in clause (A) above, to the payments of all costs, expenses, liabilities and advances made or incurred by the Lenders in connection with such proceedings, adjustments, sale, foreclosure or other disposition;

(C) Third, to the extent any proceeds remain after payment in full of those items specified in clauses (A) and (B) above, to the payment of the Obligations, to be allocated among each Lender until all remaining Obligations is paid in full; but if such proceeds shall be insufficient to pay the whole amount so due upon the Obligations, then with application to be made pro rata, in accordance with each Lender's Percentage Interest as follows: first, to the unpaid interest thereon; second, to unpaid principal thereof; and third, to all other Obligations;

(D) Fourth, to the extent any proceeds remain after payment in full of those items specified in clauses (A), (B) and (C) above, to the payment of any additional Obligations until all remaining Obligations are paid in full; but if such proceeds shall be insufficient to pay the whole amount of any Obligations, then with application to be made pro rata in accordance with each Lender's respective share of any Obligations; and

(E) Fifth, to the extent any proceeds remain after payment in full of those items specified in clauses (A), (B), (C) and (D) above such proceeds shall be paid to or at the direction of the Pledgor or as a court of competent jurisdiction shall direct.

(ii) The Agent and each Lender signatory hereto hereby agrees that (i) if at any time it shall receive the proceeds of any Pledged Collateral, or shall apply any balances, credits, accounts or monies with the Agent, or such Lender, through the exercise of any right of set-off, counterclaim or other similar right, whether pursuant to the Note or otherwise, (other than through application by the Agent in accordance with this section), it shall promptly turn the same over to the Agent for application in accordance with this section and (ii) it will not take or cause to be taken any action, including, without limitation, the commencement of any legal or equitable proceedings, the purpose of which is to give the Agent or such Lender any preference or priority against the other parties hereto with respect to the Pledged Collateral or the right to payment from the Partnership.

(d) Notices of Default. Agent and Lenders shall each use their best efforts to give to each other copies of any notice of the occurrence or existence of an event of default under the Loan Documents, but the failure to do so shall not affect the validity of such notice or create a cause of action against the party failing to give such notice or create any claim or right on behalf of any third party.

(e) Amendments. No change, amendment, modification, cancellation, or discharge of any provision of this Pledge Agreement shall be valid, *unless* consented to in writing by each Lender, Agent and Pledgor. Furthermore, no Lender shall modify the default, remedy, or agency provisions of its Note, without the prior written consent of each Lender.

(f) Authority of Agent. Agent shall have and be entitled to exercise all such powers hereunder as are specifically delegated to Agent by the terms hereof, together with such powers as are reasonably incidental thereto. Agent may execute any of its duties hereunder by or through sub-agents or employees and shall be entitled to retain counsel and to act in reliance upon the advice of such counsel concerning all matters pertaining to said duties. Agent and any affiliate, director, officer, or employee of Agent shall not be liable for any action taken or omitted to be taken by them or any of them hereunder or in connection herewith, *except* for their own gross negligence or willful misconduct; nor shall Agent be responsible for the validity, effectiveness, or sufficiency hereof or of any document or security furnished pursuant hereto or in connection herewith. Agent shall be entitled to rely on any communication, instrument, or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Pledgor hereby agrees to reimburse Agent, on demand, for all reasonable expenses incurred by it in connection with the administration and enforcement of this Pledge Agreement and agrees to indemnify and hold harmless Agent from and against any and all liability incurred by it hereunder or in connection herewith, *unless* such liability shall be due to willful misconduct or gross negligence on the part of Agent. Other than the exercise of reasonable care in the physical custody of the Pledged Collateral while held by Agent, Agent shall have no responsibility for or obligation or duty with respect to all or any part of the Pledged Collateral or any matter or proceeding arising out of or relating thereto, including, without limitation, any obligation or duty to collect any sums due in respect thereof or to protect or preserve any rights against prior parties or any other rights pertaining thereto, it being understood and agreed that Pledgor shall be responsible generally for the preservation of all rights in the Pledged Collateral. Without limiting the generality of the foregoing, Agent shall be conclusively deemed to have exercised reasonable care in the custody of the Pledged Collateral if Agent takes such action, for purposes of preserving rights in the Pledged Collateral, as Pledgor may reasonably request in writing, but no failure or omission or delay by Agent in complying with any such request by Pledgor, and no refusal by Agent to comply with any such request by Pledgor, shall be deemed to be a failure to exercise reasonable care.

(g) Termination of Agency Agreement. This *Section 9* shall survive the release of the Pledged Collateral and/or the termination of this Pledge Agreement, and shall not terminate unless agreed to be by each Lender in writing or upon the repayment in full of all the Obligations.

Section 10. Certain Rights Before and After a Default.

(a) Agent's Responsibility for Pledged Collateral. Agent shall have no duty to fix or preserve rights against prior parties to the Pledged Collateral, and shall never be liable (except for its own gross negligence or willful misconduct) for its failure to use diligence to collect any amount payable with respect to the Pledged Collateral, but shall be liable only to account to Pledgor for what it may actually collect or receive thereon.

(b) Purchase Price for Pledged Collateral. If Agent advances funds to or for the account of Pledgor to enable the latter to purchase or otherwise acquire rights in the Pledged Collateral, or any part thereof, such funds may, at Agent's option, be paid (i) directly to the person, firm, or corporation from whom Pledgor will make such purchase or acquisition or (ii) to Pledgor, in which event such Pledgor covenants to promptly pay the same to such person, firm, or corporation and forthwith furnish to Agent evidence satisfactory to Agent that such payment has been made.

(c) Financing Statement. Agent shall have the right at any time to execute and file this Pledge Agreement as a financing statement, but the failure of Agent to do so shall not impair the validity or enforceability of this Pledge Agreement.

(d) Maximum Interest. It is expressly stipulated and agreed to be the intent of each Pledgor and Agent at all times to comply with applicable state law or applicable United States federal law (to the extent that it permits Agent to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this Section 10(d) shall control every other covenant and agreement in this Pledge Agreement and the other Loan Documents. If the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under this Pledge Agreement, or under any of the other Loan Documents, or contracted for, charged, taken, reserved, or received with respect to the indebtedness evidenced by the Loan Documents, or if Agent's or any Lender's exercise of the option to accelerate the maturity of any Note (pursuant to a Default or otherwise), or if any prepayment by Pledgor, late payment charge, default interest, or any fee, charge, or imposition of any kind under applicable law results in Pledgor having paid any interest in excess of that permitted by applicable law, then it is Pledgor's and Agent's express intent that all excess amounts theretofore collected by Agent be repaid to such Pledgor with interest thereon at the Maximum Rate (or if any principal of any loan under the Loan Documents is outstanding, that such amounts with such interest thereon be applied to reduce the principal balance of such loans pro rata), and the provisions of this Pledge Agreement, each applicable Note, the Guaranty and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. Notwithstanding anything to the contrary contained herein or in any of the Loan Documents, it is not the intention of Agent to accelerate the maturity of any interest that has not accrued at the time of any acceleration of any Note or to collect unearned interest at the time of such acceleration.

(e) Disclosure. Agent is granted the right to discuss Pledgor's and the Partnership's affairs, finances, and accounts with all parties to such degree as Agent deems necessary or advisable to protect its security interest and/or the repayment of the indebtedness secured hereby. Each Pledgor covenants to do all things necessary or appropriate to permit Agent to fully exercise its rights under this paragraph.

(f) Deposit of Proceeds. *Except* as expressly prescribed above, all payments received by Agent with respect to the Pledged Collateral shall, at Agent's option, be deposited in a special interest bearing account at a bank to be designated by Agent in the name of Agent styled a "*Collateral Account*." Funds in said account are hereby assigned to Agent and shall be impressed with a lien to secure the Secured Indebtedness, and shall be applied by Agent as provided for above.

(g) Payment of Expenses. At Agent's option, Agent may (but shall not be obligated to) discharge taxes, liens, and interest, perform or cause to be performed, for and on behalf of Pledgor, any actions and conditions, obligations, or covenants which Pledgor has failed or refused to perform, and may pay for the repair, maintenance, or preservation of any of the Pledged Collateral, and all sums so expended, including, but not limited to, reasonable attorneys' fees, court costs, agents' fee or commissions, or any other costs or expenses, shall become part of the Secured Indebtedness, shall bear interest from the date of payment as provided in the Note, shall be payable at the place designated for payment of the Secured Indebtedness, and shall be secured by this Pledge Agreement.

Section 11. Miscellaneous.

(a) Terms Commercially Reasonable. The terms of this Pledge Agreement shall be deemed commercially reasonable within the meaning of the Code in effect and applicable hereto.

(b) Headings. The headings of articles and sections herein are inserted only for convenience and shall in no way define, describe, or limit the scope or intent of any provision of this Pledge Agreement.

(c) Assignments. No obligations of Pledgor hereunder can be assigned without prior written consent of Agent, and Agent or any Lender may not assign any part of this Pledge Agreement without the without prior written consent of Pledgor. Any attempted assignment in violation of this *subsection* shall be null and void.

(d) Parties in Interest. As and when used herein, the term "*Pledgor*" shall mean and include Pledgor herein named and any successors and permitted assigns, and the term "*Agent*" shall mean and include Agent herein named and its successors and assigns, and all covenants and agreements herein shall be binding upon and inure to the benefit of Pledgor and Agents and their respective successors and assigns..

(e) Governing Law and Venue. THIS PLEDGE AGREEMENT AND ALL ISSUES AND CLAIMS ARISING IN CONNECTION WITH OR RELATING TO THE PLEDGED COLLATERAL OR THE SECURED INDEBTEDNESS, INCLUDING BUT WITHOUT LIMITATION, ALL CONTRACT, TORT, EQUITY, OR OTHER CLAIMS OR COUNTERCLAIMS SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (WITHOUT CONSIDERATION OF ITS CONFLICTS OF LAWS RULES) AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. AGENT AND PLEDGOR HEREBY IRREVOCABLY (I) SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT SITTING IN DALLAS, TEXAS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY, AND (II) WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY DEFENSE ASSERTING AN INCONVENIENT FORUM IN CONNECTION THEREWITH. If any provision of this Pledge Agreement is held to be invalid or unenforceable, the validity and enforceability of the other provisions of this Pledge Agreement shall remain unaffected.

(f) Notices. Notices and other communications shall be effective (a) if mailed, upon the earlier of receipt or five (5) days after deposit in the U.S. mail, first class, postage prepaid, (b) if telecopied, when transmitted, or (c) if hand-delivered, by courier or otherwise (including telegram, lettergram or mailgram), when delivered. Any notices or other communications required or permitted to be given by this Pledge Agreement or any other documents and instruments referred to herein shall be given as follows:

If to Agent: _____

If to Pledgor: _____

(g) Obligations Absolute. All rights and remedies of Agent hereunder, and all obligations of Pledgor hereunder, shall be absolute and unconditional irrespective of:

(i) any lack of validity or enforceability of the Note, the Guaranty or any of the other Loan Documents or any other agreement or instrument relating to any of the foregoing;

(ii) any change in the time, manner, or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the Note or any of the other Loan Documents; or

(iii) any exchange, release, or nonperfection of any interest in any Pledged Collateral, or any release or amendment or waiver of or consent to any departure from any guarantee, for all or any of the Obligations.

(h) Counterparts. This Pledge Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument, and in making proof of this Pledge Agreement it shall not be necessary to produce or account for more than one such counterpart.

(i) Entirety. This Pledge Agreement and the Note embody the final, entire agreement among Pledgor and Agent with respect to the pledge and assignment of the Pledged Collateral and the other matters addressed herein and therein, and supersede any and all prior commitments, agreements, representations, and understandings, whether written or oral, relating to the subject matter hereof and thereof, and may not be contradicted or varied by evidence of prior, contemporaneous, or subsequent oral agreements or discussions of the parties hereto. There are no oral agreements among the parties hereto.

(j) Waiver of Trial by Jury. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AGENT AND PLEDGOR HERETO HEREBY IRREVOCABLY AND EXPRESSLY WAIVE ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS PLEDGE AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR

THEREBY, OR THE ACTIONS OF AGENT IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT HEREOF OR THEREOF.

(k) Waiver of Certain Claims. Pledgor hereby waives any right or claim to consequential or punitive damages arising out of or relating to this Pledge Agreement or any of the other Loan Documents or the transactions contemplated hereby or thereby, or the actions of Agent in the negotiation, administration, or enforcement hereof or thereof.

(l) Waiver of Notice and Hearing. PLEDGOR HEREBY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO NOTICE OR HEARING PRIOR TO SEIZURE BY AGENT OF THE COLLATERAL, WHETHER BY WRIT OF POSSESSION OR OTHERWISE.

Remainder of Page Intentionally Left Blank.
Signature Page(s) To Follow.

The undersigned has executed this Pledge Agreement effective as of the date first written above.

PLEDGOR:

_____
[NAME]

AGREED AND ACKNOWLEDGED TO BY:

LENDERS:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

AGENT:

By: _____
Name: _____
Title: _____

EXHIBIT J

NOTICE INFORMATION

Highland Capital Management, L.P.
13455 Noel Road, Suite 1300
Two Galleria Tower
Dallas, Texas 75240

PARTNERS:	SPOUSES:
Bradford Borud 2533 Merlin Drive Lewisville, Texas 75056	Althea Borud 2533 Merlin Drive Lewisville, Texas 75056
Canis Minor Trust 13455 Noel Road, Suite 1300 Two Galleria Tower Dallas, Texas 75240	N/A
Patrick Daugherty 3621 Cornell Avenue Dallas, Texas 75205	Kimberly Daugherty 3621 Cornell Avenue Dallas, Texas 75205
Davis Deadman 5055 Addison Circle #722 Addison, Texas 75001	N/A
James D. Dondero 13455 Noel Road, Suite 1300 Two Galleria Tower Dallas, Texas 75240	N/A
R. Joseph Dougherty 5055 Addison Circle #724 Addison, Texas 75001	N/A
Paul Kauffman 702 Starlight Pass Heath, Texas 75032	Amy Kauffman 702 Starlight Pass Heath, Texas 75032
John Morgan 3805 Park Place Addison, Texas 75001	Debra Morgan 3805 Park Place Addison, Texas 75001

D-ezCleanDAL_1269751_11.DOC

PLAINTIFFS 000100

Mark K. Okada 13455 Noel Road, Suite 1300 Two Galleria Tower Dallas, Texas 75240	**Pamela Okada** University of Texas Southwestern Medical Center of Dallas 5323 Harry Hines Boulevard Dallas, Texas 75390
Kurtis Plumer 6412 Andora Drive Plano, Texas 75093	**Kristi Plumer** 6412 Andora Drive Plano, Texas 75093
Strand Advisors, Inc. 13455 Noel Road, Suite 1300 Two Galleria Tower Dallas, Texas 75240	N/A
The Get Better Trust 13455 Noel Road, Suite 1300 Two Galleria Tower Dallas, Texas 75240	N/A
The Get Good Trust 13455 Noel Road, Suite 1300 Two Galleria Tower Dallas, Texas 75240	N/A
The Mark and Pamela Okada Family Trust – Exempt Trust #2 13455 Noel Road, Suite 1300 Two Galleria Tower Dallas, Texas 75240	N/A
Todd A. Travers 3613 Cedar Lane Farmers Branch, Texas 75234	**Kimberly Travers** 3613 Cedar Lane Farmers Branch, Texas 75234
David Walls 4013 Amherst Avenue Dallas, Texas 75225	**Carl Walls** 4013 Amherst Avenue Dallas, Texas 75225
John Yang 245 Park Avenue, 39th Floor New York, New York 10167	**Joyce Yang** 245 Park Avenue, 39th Floor New York, New York 10167

EXHIBIT K

ASSIGNMENT OF INTEREST

IN

Highland Capital Management, L.P.,
a Delaware limited partnership

_____ (the "*Assignor*"), as owner of a limited partnership interest in Highland Capital Management, L.P., a Delaware limited partnership (the "*Partnership*"), hereby assigns, transfers, and conveys all of his/her/its right, title, and interest in and to a _____% Percentage Interest in the Partnership and all the capital, profits, and losses of the Partnership associated therewith (the "*Interest*"), free and clear of all liens, encumbrances, security interests, claims or options, to _____ (the "*Assignee*") as of this ____ day of _____, _____ (the "*Effective Date*").

The Assignee hereby accepts this Interest and the capital, profits, and losses allocable to the Interest on and after the Effective Date, and agrees to comply with and be bound by all of the terms and conditions of the Second Amended and Restated Limited Partnership Agreement of the Partnership, dated December 31, 2004, to be effective as of February 29, 2004, as amended (the "*Partnership Agreement*"), and the Amended and Restated Buy-Sell and Redemption Agreement Among Highland Capital Management, L.P. and its Limited Partners, dated December 31, 2004, to be effective as of February 29, 2004, as amended (the "*Buy-Sell Agreement*"). The Assignee further agrees to promptly execute an appropriate addendum or amendment to the Partnership Agreement and the Buy-Sell Agreement.

Remainder of Page Intentionally Left Blank.
Signature Pages to Follow.

IN WITNESS WHEREOF, the Assignor and the Assignee have executed this Assignment effective as of the _____ day of _____, _____.

ASSIGNOR:

_____

_____

ACCEPTED BY ASSIGNEE:

_____

_____

ORIGINAL

2005 HCMLP
LONG-TERM INCENTIVE PLAN

Section 1. Establishment, Purpose, and Effective Date of Plan.

1.1 Establishment. Highland Capital Management, L.P., a Delaware limited partnership (the "***Partnership***") hereby establishes a long-term incentive program for selected key Employees of the Partnership and its Affiliates. The plan shall be known as the 2005 HCMLP Long-term Incentive Plan (the "***Plan***").

1.2 Purpose. The Partnership has established the Plan to create positive morale and teamwork, to attract and retain key talent, and to encourage the achievement of common goals. The Plan will reward participating Employees based on the increased value of the Partnership and its Affiliates through the use of Long-term Incentive Units.

The Plan is intended to be in good faith compliance with Section 409A of the Code, and is to be construed in accordance with Section 409A of the Code and any guidance issued thereunder. This Plan shall be effective for all amounts deferred by Participants that relate to services performed on or after January, 1, 2005. This Plan does not relate to and shall not apply to the HCM Services Long-term Incentive Plan, as amended from time to time (the "Affiliate Plan"). This Plan is not intended as a "material modification" of the Affiliate Plan as such term is described in any guidance issued under Section 409A of the Code. In the event it is determined that any provision in this Plan results in a material modification of the Affiliate Plan, the Administrator shall have the power to unilaterally modify or eliminate any such provision. The Affiliate Plan, as in effect December 31, 2004, shall be subject to the applicable laws in effect prior to the Act.

1.3 Effective Date. The Plan is effective as of January 1, 2005.

1.4 Plan Duration. The Plan shall continue in effect for a term of ten (10) years from the original effective date, unless sooner terminated pursuant to applicable provisions of the Plan.

Section 2. Definitions.

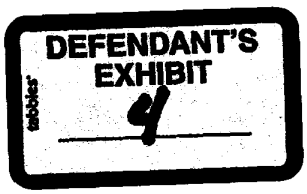
2.1 Definitions. The following terms, when used with initial capital letters, unless the context clearly indicates otherwise, shall have the following respective meanings:

"***Account***" means the bookkeeping record established by the Administrator for each Participant which accurately indicates the unfunded amount which may become payable to the Participant under the terms of this Plan.

"***Account Balance***" means the balance in a Participant's Account that is credited with the Long-term Incentive Units or cash granted to the Participant.

"***Administrator***" means the person(s) or committee appointed pursuant to Section 4 to administer this Plan.

"***Affiliate***" means any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question. As used in this definition, the term "***control***" means the possession, directly or indirectly, of the power to direct or cause the direction of the



Daugherty
Ex. 39

management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"***Affiliate Employer***" means any Affiliate of the Partnership which is the employer of a Participant.

"***Applicable Entities***" means the Partnership and its Affiliates.

"***Award***" means a grant of Long-term Incentive Units or cash to a Participant pursuant to an Award Agreement.

"***Award Agreement***" means a written agreement between the Partnership and a Participant evidencing an award of Long-term Incentive Units or cash pursuant to this Plan.

"***Cash Award***" means an amount of cash awarded to a Participant under the Plan which may entitle the Participant to receive a payment upon the occurrence of specified Triggering Events.

"***Cause***" means

(i) With respect to a Participant who is a Partner in the Partnership, the conduct by the Participant amounting to (a) the Participant's conviction or plea of *nolo contendere* for any criminal offense or commission by the Participant of any act that the Partnership considers damaging to or tending to discredit any of the Applicable Entities; (b) dishonesty, fraud, misconduct, unlawful discrimination, breach of contract, bad faith or theft on the part of the Participant that is injurious to any of the Applicable Entities; (c) the Participant's using for his/her own benefit any confidential or proprietary information of any of the Applicable Entities, or willfully or negligently divulging any such information to third parties without the prior written consent of the Partnership; (d) a breach or violation of the terms of this Plan or other agreement to which the Participant and any of the Applicable Entities are party in any manner that adversely affects any of the Applicable Entities; (e) the failure or refusal of the Participant to follow the lawful directives of the Partnership or an Affiliate Employer (unless due to sickness, injury, or disabilities, but excluding self-inflicted injuries, drug usage in violation with Partnership or Affiliate Employer policy or addiction to alcohol or other substances hazardous to health); (f) inattention to duty or any other willful, reckless or negligent act (or omission to act) by the Participant, which, in the good faith judgment of the Partnership, injures any of the Applicable Entities; (g) a breach of fiduciary duties; (h) the Participant's commission or participation in any illegal act in the course of his/her employment with the Partnership or an Affiliate Employer, including violation of any statute or regulation; or (i) the Participant's second commission of an act, of which Participant is given written notice, that is determined in good faith by (A) James D. Dondero, with regard to any event involving James D. Dondero, or (B) both James D. Dondero and Mark K. Okada for an event involving Mark K. Okada or any other employee of an Applicable Entity, to constitute disrespect or unacceptably irreverent or inappropriate behavior to James D. Dondero, Mark K. Okada or any other employee of an Applicable Entity; and

(ii) With respect to a Participant who is not a Partner in the Partnership, the conduct by the Participant amounting to (a) the Participant's conviction or plea of *nolo contendere* for any felony offense or commission by the Participant of any act abhorrent to the community that the Partnership considers materially damaging to or tending to discredit any of the Applicable Entities; (b) dishonesty, fraud, willful misconduct, unlawful discrimination, breach of contract, bad faith or theft on the part of the Participant that is materially injurious to any of the Applicable Entities; (c) the Participant's using for his or her own benefit any confidential or proprietary information of any of the Applicable Entities, or willfully or negligently divulging any such information to third parties without the

prior written consent of the Partnership, in any manner that adversely affects any of the Applicable Entities; (d) a material breach or violation of the terms of this Plan or other agreement to which the Participant and any of the Applicable Entities are party in any manner that adversely affects any of the Applicable Entities; (e) the repeated failure or refusal of the Participant to follow the lawful directives of any of the Partnership or Affiliate Employers (unless due to sickness, injury, or disabilities, but excluding self-inflicted injuries, drug usage in violation with Partnership or Affiliate Employer policy or addiction to alcohol or other substances hazardous to health), provided that demonstrable harm for such failure or refusal has continued for more than fifteen (15) days after the Partnership or Affiliate Employer, on behalf of the Partnership or Affiliate Employer, has given written notice to the Participant of such failure or refusal and of the Partnership's or Affiliate Employer's intention to terminate the Participant's employment because of such failure; (f) gross inattention to duty or any other willful, reckless or grossly negligent act (or omission to act) by the Participant, which, in the good faith judgment of the Partnership, materially injures any of the Applicable Entities, including the repeated failure to follow any of the policies and procedures of the Partnership or Affiliate Employer; (g) a material breach of fiduciary duties; or (h) the Participant's second commission of an act, of which the Participant is given written notice, that is determined in good faith by (A) James D. Dondero, with regard to any event involving James D. Dondero, or (B) both James D. Dondero and Mark K. Okada for an event involving Mark K. Okada or any other employee of an Applicable Entity, to constitute disrespect or unacceptably irreverent or inappropriate behavior to James D. Dondero, Mark K. Okada or any other employee of an Applicable Entity.

Any determination of whether an Participant should be terminated for Cause pursuant to this Plan shall be made in the reasonable discretion of the Partnership, shall be made in good faith and shall be binding upon all parties affected thereby.

"***Change in Control***" means either (i) a change in the ownership of the Partnership, such that any one person or more than one person acting as a group, directly or indirectly, acquires ownership of equity interests of the Partnership that, together with equity interests held by such person or group, constitutes more than 50% of the total fair market value or total voting power of the equity interests of the Partnership and the following Persons (either singularly or collectively) fail to retain, directly or indirectly, more than 50 percent of the total fair market value or total voting power of the equity interests of the Partnership: James D. Dondero, Mark K. Okada or their affiliated, family or charitable trusts, employees, former employees, and any long-term incentive plans; or (ii) any one person or more than one person acting as a group acquires during the 12-month period ending on the date of the most recent acquisition by such person or persons assets that have a total gross fair market value of at least 40% of the total gross fair market value of all of the assets of the Partnership immediately prior to such acquisition or acquisitions. The above Change in Control definition shall be construed in accordance with Section 409A(a)(2)(A)(v) of the Code and any guidance issued thereunder. For clarification, the death or retirement of either or both James D. Dondero or Mark K. Okada shall not, in and of itself, constitute a Change in Control.

"Code" means the Internal Revenue Code of 1986, as amended and in effect from time to time.

"***Competing Business***" means any business conducted by any of the Applicable Entities at the time the Participant's Continuous Status as an Employee ends.

"***Confidential Information***" includes, but is not limited to:

(i) Information concerning customers, clients, marketing, business and operational methods of the Applicable Entity and their customers or clients, contracts, financial or other data, technical data, e-mail and other correspondence or any other confidential or proprietary information possessed, owned or used by the Applicable Entity;

(ii) Business, pricing and management methods and information;

(iii) Finances, strategies, systems, research, plans, reports, recommendations and conclusions;

(iv) Tear sheets, industry comparative analysis and any other information about Collateralized Loan Obligations (CLOs) and any other structured products;

(v) Names, arrangements with, or other information relating to, any of the Applicable Entity's customers, clients, suppliers, financiers, owners, representatives and other Persons who have business relationships with the Applicable Entity or who are prospects for business relationships with the Applicable Entity; and

(vi) Any matter or thing obtained or ascertained by a Participant through the Participant's association with the Applicable Entity, the use or disclosure of which might reasonably be construed to be contrary to the best interests of the Applicable Entity, its employees or owners.

"***Continuous Status as an Employee***" means that the Participant's employment with the Partnership and all Affiliate Employers is not interrupted or terminated. Continuous Status as an Employee shall not be considered interrupted in the case of (i) any leave of absence approved by the Partnership or Affiliate Employer; (ii) transfers between locations of the Partnership or between any Applicable Entity and any successor thereto; (iii) transfers between one Applicable Entity and any other Applicable Entity, or (iv) any leave of absence permitted by applicable law. A leave of absence approved by the Partnership or Affiliate Employer shall include sick leave, military leave, or any other personal leave approved by an authorized representative of the Partnership or Affiliate Employer. Notwithstanding the foregoing, the determination of whether Continuous Status as an Employee is interrupted or terminated shall be made in accordance with any applicable separation from service guidance issued under Section 409A of the Code, including Section 409A(a)(2)(A)(i).

"***Disability***" means a Participant is (i) unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, or (ii) by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, receiving income replacement benefits for a period of not less than three (3) months under an accident and health plan covering Employees. Any determination of a Disability shall be made in accordance with the requirements of Section 409A of the Code and any guidance issued thereunder. Notwithstanding the foregoing, the determination of whether a Participant has a Disability shall be made in accordance with any applicable separation of service guidance issued under Section 409A of the Code, including Section 409A(a)(2)(C).

"***Employee***" means any person employed by the Partnership or an Affiliate Employer as a common law employee.

"***Fair Market Value***" means on any date, the value of the Partnership as determined by the Administrator. Fair Market Value will be calculated and disseminated for each year effective January 1 no later than thirty-one (31) days following January 1 of each year.

"***Grant Date***" means the date on which Long-term Incentive Units or cash are granted to a Participant as evidenced by an Award Agreement.

"***Highland Capital Management***" means Highland Capital Management, L.P., a Delaware limited partnership, or any successor thereto.

"***Long-term Incentive Units***" means the units awarded to a Participant under the Plan which may entitle the Participant to receive a payment upon the occurrence of specified Triggering Events.

"***Participant***" means any Employee who is eligible to participate in the Plan pursuant to Section 3.1.

"Partner" means any Person who has been admitted as a partner in the Partnership pursuant to the terms of the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, dated December 31, 2004, as may be amended, supplemented or restated from time to time.

"***Partnership***" has the meaning set forth in Section 1.1.

"***Person***" means an individual or a corporation, limited liability company, partnership, trust, estate, unincorporated organization, association, or other entity.

"***Plan***" has the meaning set forth in Section 1.1.

"***Retirement***" has the same meaning as provided in the Highland 401(k) Plan, effective as of October 1, 2004, maintained by the Partnership. If, at any time during the period that this Plan is in operation, the Partnership does not maintain a retirement plan, Retirement means a Participant's voluntary termination of the Participant's Continuous Status as an Employee after reaching age sixty-five (65) and completing at least five (5) years of Continuous Status as an Employee. Notwithstanding the foregoing, the determination of whether a Retirement has occurred shall be made in accordance with any applicable separation from service guidance issued under Section 409A of the Code, including Section 409A(a)(2)(A)(i).

"***Specialized Training***" includes, but is not limited to:

(i) Training the Partnership or Affiliate Employer provides to a Participant that is unique to its business and enhances the Participant's ability to perform his/her job duties effectively, including disclosure and access to Confidential Information; and

(ii) Orientation training, sales methods/techniques training, operation methods training, and computer and systems training.

"***Triggering Event***" means the earliest of the following events to occur:

(i) Change in Control;

(ii) A Participant's voluntary termination of the Participant's Continuous Service as an Employee after providing the Partnership and Affiliate Employer at least thirty (30) days' advance written notice;

(iii) Involuntary termination of the Participant's Continuous Service as an Employee not for Cause;

(iv) Termination of the Participant's Continuous Service as an Employee due to death;

(v) Termination of the Participant's Continuous Service as an Employee due to Disability;

(vi) Termination of the Participant's Continuous Service as an Employee due to Retirement;

(vii) A Participant's Unforeseeable Emergency if the Administrator determines, in accordance with Section 409A(a)(2)(B) of the Code and any guidance issued thereunder, that the Participant qualifies to exercise Vested Long-Term Incentive Units or to receive cash; or

(ix) any other event specified in an Award Agreement.

"***Vested***" means that a Participant's Long-term Incentive Units or Cash Award have become non-forfeitable except as otherwise specifically provided in this Plan or any Award Agreement. The rights, obligations, and liabilities of the Plan and the Participant with respect to a Long-term Incentive Unit or Cash Award becoming "Vested" are conditioned and dependent on the Participant's consent and agreement to the promises set forth in Section 8.8 and to the enforceability of such covenants as stated therein with respect to that Participant in the event of a dispute between that Participant and the Plan.

2.2 Gender and Number. Except when otherwise indicated by the context, words in the masculine gender when used in the Plan shall include the feminine gender, the singular shall include the plural, and the plural shall include the singular.

Section 3. Eligibility and Participation.

3.1 Eligibility. The Administrator, in its sole and unfettered discretion, shall determine which Employees shall be eligible to participate in the Plan.

3.2 Effective Date of Participation. Upon becoming eligible to participate in the Plan, an Employee shall become a Participant as of the Grant Date.

Section 4. Administration.

4.1 Administration. This Plan shall be administered by the Administrator. The Administrator will be appointed by the Partnership. All questions of interpretation and administration of this Plan, or of the terms and conditions pursuant to which Long-term Incentive Units or Cash Awards are granted or forfeited or pursuant to which amounts are paid under the provisions hereof, shall be

subject to the good faith determination of the Administrator. Such good faith determination shall be final and binding upon all parties affected thereby.

The Administrator shall have the exclusive responsibility for the general administration of the Plan according to the terms and provisions of the Plan and shall have all of the powers necessary to accomplish these purposes, including but not by way of limitation, the right, power and authority, in good faith:

(a) To make rules and regulations for the administration of the Plan;

(b) To construe all terms, provisions, conditions, and limitations of the Plan;

(c) To correct any defects, supply any omissions or reconcile any inconsistencies that may appear in the Plan in the manner and to the extent it deems expedient to carry the Plan into effect;

(d) To determine all controversy relating to the administration of the Plan, including but not limited to differences of opinion which may arise between the Partnership or the Administrator and the Participants;

(e) To resolve any question the Administrator deems advisable in order to promote the uniform administration of the Plan;

(f) To determine or modify the terms of eligibility and participation in the Plan;

(g) To authorize the initial number of Long-term Incentive Units to be granted to each Participant;

(h) To authorize the number of Long-term Incentive Units to be awarded in addition to the initial number granted;

(i) To determine the time or times when Long-term Incentive Units will be granted;

(j) To determine the form of the instruments evidencing any Long-term Incentive Units awarded under this Plan and to promulgate the terms and conditions of any awards;

(k) To determine the amounts of Cash Awards; and

(l) To determine the value of the Partnership and the value of the Long-term Incentive units from time to time.

4.2 Administrator's Discretion. The Administrator, in exercising any power or authority granted under this Plan, or in making any determination under this Plan, is authorized to perform those acts in its sole and absolute discretion and judgment. Any decision made by the Administrator, or any refraining to act or any act taken by the Administrator, in good faith shall be final and binding on all parties. All decisions made by the Administrator shall never be subject to de novo review.

4.3 Liability and Indemnity of Administrator. The Administrator shall not be liable for any act done or any determination made in good faith. The Partnership and its Affiliates shall, to the fullest extent permitted by law, indemnify and hold the Administrator, and each of its members, harmless from

any and all claims, causes of action, damages and expenses (including reasonable attorneys' fees and expenses) incurred by the Administrator in connection with or otherwise related to his/her service in such capacity.

Section 5. Grants of Long-term Incentive Units and Cash Awards.

5.1 Awards. An award under the Plan will be granted, as of its Grant Date, to a Participant in the form of Long-term Incentive Units or Cash Awards. The number and frequency with which Long-term Incentive Units or Cash Awards are granted to each Participant will be at the discretion of the Administrator. The Administrator may grant additional Long-term Incentive Units shares or Cash Awards to a Participant at its sole and unfettered discretion from time to time.

5.2 Date of Grant. The Grant Date of an award will be set forth in the Award Agreement.

5.3 Account Balance. The Administrator will maintain a record of the Long-term Incentive Units and Cash Awards granted to each Participant and will create a separate Account for each Participant when the first award of Long-term Incentive Units or cash is granted to that Participant.

5.4 Limitation on Grants. The aggregate number of Long-term Incentive Units that may be awarded under the Plan is unlimited. In the event a Participant's rights to Long-term Incentive Units lapse or are forfeited, such Long-term Incentive Units shall become available for future grant under the Plan unless the Plan has terminated.

5.5 Term of Grants. The Award Agreement shall set forth the term of each Award; *provided, however*, an Award shall not be exercisable after the expiration of ten (10) years from the Grant Date of such Award or sooner as set forth under the Plan. The Administrator, at its sole and unfettered discretion, may specify a shorter term and state such term in the Award Agreement.

5.6 Mutual Dependence. Any Award under this Plan, is conditioned and dependent on the Participant's consent and agreement to the promises set forth in Section 8.8 and to the enforceability of such covenants as stated therein with respect to that Participant in the event of a dispute between that Participant and the Plan.

Section 6. Vesting.

6.1 Normal Vesting Schedule. Long-term Incentive Units or Cash Awards may, in the sole and unfettered discretion of the Administrator, be fully and immediately Vested upon issuance or may become Vested in one or more installments while the Participant maintains his/her Continuation Status as an Employee. The vesting schedule for each Award will be set forth in each Award Agreement. Any vesting of a Long-term Incentive Unit or Cash Award is conditioned and dependent on the Participant's consent and agreement to the promises set forth in Section 8.8 and to the enforceability of such covenants as stated therein with respect to that Participant in the event of a dispute between that Participant and the Plan. Unless otherwise specified in the Plan or Award Agreement, Long-term Incentive Units and Cash Awards granted under the Plan will vest as follows:

Vesting Date	Vested Percentage
1st February 28 Following Grant Date	40%
2nd February 28 Following Grant Date	70%
3rd February 28 Following Grant Date	100%

For voluntary termination, the date of notice of such voluntary termination will be the date that determines the amount Vested; *provided, however*, Awards which become Vested in accordance with this Section 6.1 may be forfeited pursuant to other provisions of this Plan or of an Award Agreement.

6.2 Accelerated Vesting Schedule. Except as otherwise provided in an Award Agreement, vesting shall be accelerated under the following instances:

(a) In the event of a Change in Control, all then outstanding Awards shall become fully Vested.

(b) In the event of death of a Participant, all then outstanding Awards granted to such Participant pursuant to any Award Agreement shall become fully Vested.

(c) In the event of Termination of a Participant's Continuous Status as an Employee due to Disability, vesting of all then outstanding Awards granted to such Participant shall be recalculated as if the Participant's original vesting schedule was determined on a monthly (rather than annual) basis with 1/12 of the vesting percentage applicable to the year of Disability applied to such units for each complete month of such year, ending with the first day of the month following the date of Disability.

(d) The Administrator, in its sole and unfettered discretion, may determine that all Long-term Incentive Units or Cash Awards granted to a Participant will become fully Vested.

(e) Notwithstanding the foregoing, Awards that become Vested in accordance with this Section 6.2 may be forfeited pursuant to other provisions of this Plan or of an Award Agreement.

Section 7. Exercise of Awards; Forfeiture.

7.1 Entitlement to Benefit. Vested Awards shall be exercised in accordance with this Section 7 of the Plan upon the occurrence of a Triggering Event or at the discretion of the Administrator, *provided, however*, the exercise of Vested Awards at the discretion of the Administrator is permissible under Section 409A of the Code and any guidance issued thereunder.

7.2 Method of Exercise. After the occurrence of a Triggering Event with respect to a Participant, an Award shall be deemed exercised.

7.3 Change in Control. As set forth in Section 6.2(a), in the event of a Change in Control, all then outstanding Awards shall become fully Vested. Upon a Change in Control, all then outstanding Vested Awards of all Participants shall be deemed to have been exercised as of the effective date of such Change in Control.

7.4 Termination of Continuous Status as an Employee. Except as otherwise provided herein or in an Award Agreement, if the Triggering Event is the termination of a Participant's Continuous Status

as an Employee for reasons other than death, Disability, or termination for Cause, any Long-term Incentive Units or Cash Awards which are not Vested shall lapse and be forfeited and shall revert to the Plan, and any then outstanding Vested Long-term Incentive Units or Cash Awards shall be deemed to have been exercised as of the date of the termination of the Participant's Continuous Status as an Employee.

7.5 Death or Disability. Upon the termination of a Participant's Continuous Status as an Employee due to death or Disability, any then outstanding Vested Long-term Incentive Units or Cash Awards shall be deemed to have been exercised as of the date of the termination of the Participant's Continuous Status as an Employee due to death or Disability.

7.6 Termination For Cause. Unless provided otherwise in an Award Agreement, upon the termination of a Participant's Continuous Status as an Employee for Cause, any Award Agreements of the Participant shall immediately terminate and the outstanding Vested Long-term Incentive Units or Cash Awards covered by such Award Agreements shall lapse and be forfeited and shall revert to the Plan.

7.8. Voluntary Termination without Proper Notice. Unless provided otherwise in an Award Agreement, if the Participant voluntarily terminates his/her Continuous Status as an Employee without providing the Partnership and his/her Affiliate Employer (if applicable) at least thirty (30) days' advance written notice, any Award Agreements of the Participant shall immediately terminate and the unexercised Vested Long-term Incentive Units or Cash Awards covered by such Award Agreements shall lapse and be forfeited and shall revert to the Plan.

Section 8. Account Balance.

8.1A Long-term Incentive Unit Formula for Participants Who Are Not Partners in the Partnership. Upon exercise, unless provided otherwise in an Award Agreement, the value of the Participant's Account Balance with respect to Long-term Incentive Units will be determined according to the following formula and adjusted according to Sections 8.2 through 8.8, as applicable:

> The Participant's Account Balance = (i) Lower of: (A) the Fair Market Value as of January 1 of the current year used for grants under the Plan; or (B) the Fair Market Value as of January 1 of the following year used for grants under the Plan, *divided by* (ii) 30,000,000, or, if greater, the total number of Long-term Incentive Units granted under the Plan, *multiplied by* (iii) the number of the Participant's Vested Long-term Incentive Units.

8.1B Long-term Incentive Unit Formula for Participants Who Are Partners in the Partnership. Upon exercise, unless provided otherwise in an Award Agreement, the value of the Participant's Account Balance with respect to Long-term Incentive Units will be determined as follows, and adjusted according to Sections 8.2 through 8.8, as applicable.

(a) The value of the Long-term Incentive Units that become Vested each year shall be determined and added to the Participant's Account as follows:

> The Participant's Account Balance = (i) Lower of: (A) the Fair Market Value as of January 1 of the year ending prior to the year in which such Units Vest, or (B) the Fair Market Value as of January 1 of the year in which such Units Vest, *divided by* (ii) 30,000,000, or, if greater, the total number of Long-term Incentive Units granted under

the Plan (sometimes referred to herein as the "***Fair Market Value of a Unit***"), *multiplied by* (iii) the number of the Participant's Vested Long-term Incentive Units.

After determination of the value of Vested Units, no adjustment shall be made to the value of such Vested Units unless the Fair Market Value of a Unit at the time of a Triggering Event which entitles the Participant to distribution of his/her Account under Section 9 of the Plan (the "***Triggering Event Value***") is less than the Fair Market Value of a Unit calculated above, in which case the Participant's Account Balance shall be determined by applying the Triggering Event Value to such Vested Units. The Fair Market Value at the time of a Triggering Event is determined under the "Account Balance" formula described above in this Section 8.1B, by treating the Units as if they became Vested on the Triggering Event date.

(b) Partnership Interests in the Partnership. Each year when a Participant's Long-term Incentive Units become Vested Units, the Partnership will issue the Participant a new equity interest in the Partnership (***"Interest"***) that will be treated as a "profits interest" for federal income tax purposes, in an amount equal to the quotient of (i) the number of the Participant's Long-term Incentive Units that become Vested Units that year, *divided by* (ii) 30,000,000, or, if greater, the total number of Long-term Incentive Units granted under the Plan. For example only, if a Participant has 10,000 Long-term Incentive Units that become Vested Units in 2008 and 30,000,000 or fewer Long-term Incentive Units have been granted under the Plan, the Participant will receive a new Interest that will be treated as a "profits interest" for federal income tax purposes in 2008 equal to 0.03333% (*i.e.*, 10,000/30,000,000). This Interest will be provided to the Participant in addition to any Awards that the Participant receives.

8.2 Change in Control. Upon a Change in Control, the value of the Participant's Account Balance with respect to Long-term Incentive Units will be equal to (i) the total market capitalization determined (or implied, in the case of a partial Change in Control) by the purchase price of the Partnership at the time of the Change in Control, *multiplied by* (ii) the number of the Participant's Vested Long-term Incentive Units, *divided by* (iii) 30,000,000, or, if greater, the total number of Long-term Incentive Units granted under the Plan.

8.3 Cash Award Formula. The value of the Participant's Account Balance with respect to Cash Awards will be determined as follows: the value of each separate Cash Award shall be determined by adding to the initial amount of the Cash Award interest calculated at five percent (5%) and compounding on an annual basis on December 31 of each year, beginning with the calendar year of the date of grant of the Cash Award. For example, if a Cash Award of $50,000 is made on July 1, 2005, to a Participant, on December 31, 2005, the Account Balance with respect to that Cash Award would be $51,250 ($50,000 plus 5% for 6 months); then, on December 31, 2006, the Account Balance with respect to that Cash Award would be $53,812.50 ($51,250 plus 5% interest for 12 months). Interest shall also be added at the time of distribution of a Cash Award (or any portion of a Cash Award) from the most recent December 31 to the date of actual distribution.

8.4 Voluntary Termination with Proper Notice or Involuntary Termination without Cause. Except as otherwise provided herein and in any applicable Award Agreement, upon exercise of a Vested Award under Section 7 after termination of the Participant's Continuous Status as an Employee either (i) by voluntary termination which is a Triggering Event and the Participant has ten (10) years of service and provides at least four (4) months' advance written notice of such termination to the Partnership and his/her Affiliate Employer (if applicable), or (ii) involuntary termination which is a Triggering Event, such Participant shall become entitled to receive a distribution in accordance with Section 9 equal to one-hundred percent (100%) of his/her Vested Account Balance. However,

(a) If, at the time of an involuntary termination of Continuous Status as an Employee which is a Triggering Event, the Participant does not have ten (10) years of service, then twenty percent (20%) of his/her Vested Account Balance shall automatically lapse and be forfeited and shall revert to the Plan, and such Participant shall become entitled to receive a distribution in accordance with Section 9 equal to eighty percent (80%) of his/her Vested Account Balance; or

(b) If, at the time of a voluntary termination of Continuous Status as an Employee which is a Triggering Event, the Participant either (a) does not have ten (10) years of service; or (b) does not provide at least four (4) months' advance written notice (but does provide at least thirty (30) days' advance written notice) of such termination to the Partnership and his/her Affiliate Employer (if applicable), then twenty percent (20%) of his/her Vested Account Balance shall automatically lapse and be forfeited and shall revert to the Plan, and such Participant shall become entitled to receive a distribution in accordance with Section 9 equal to eighty percent (80%) of his/her Vested Account Balance.

8.5 Death, Disability or Retirement. Except as otherwise provided herein and in any applicable Award Agreement, upon exercise of a Vested Award under Section 7 after termination of the Participant's Continuous Status as an Employee due to death, Disability, or Retirement, such Participant shall be entitled to receive a distribution in accordance with Section 9 equal to one hundred percent (100%) of his/her Vested Account Balance.

8.6 Unforeseeable Emergency. Upon a request by a Participant for a distribution due to Unforeseeable Emergency, the Administrator, in its discretion, shall determine the eligibility of the Participant for a distribution and the percentage of the Participant's Vested Account Balance which may be distributed, but in no event shall the amount of the Unforeseeable Emergency distribution exceed the amount necessary to satisfy such emergency plus amounts necessary to pay taxes reasonably anticipated as a result of the distribution, after taking into account the extent to which such hardship is or may be relieved through reimbursement or other compensation by insurance or otherwise, or by liquidation of the Participant's assets (to the extent such a liquidation would not cause severe financial hardship).

For purposes of this Section 8.6, an ***"Unforeseeable Emergency"*** means a severe financial hardship to the Participant resulting from an illness or accident of the Participant, the Participant's spouse, or a dependent of the Participant, loss of the Participant's property due to a casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. Any determination of Unforeseeable Emergency shall be made in accordance with the requirements of Section 409A of the Code and any guidance issued thereunder.

8.7 Voluntary Termination without Proper Notice or Involuntary Termination for Cause. Unless provided otherwise in an Award Agreement, upon the involuntary termination of a Participant's Continuous Status as an Employee for Cause or the voluntary termination of a Participant's Continuous Status as an Employee which is not a Triggering Event, the Participant's entire Vested Account Balance shall automatically lapse and be forfeited and shall revert to the Plan.

8.8 Forfeiture of All Benefits in Event of Competitive Activity.

(a) Access to Confidential Information and Specialized Training. In addition to the mutual promises contained in this Plan, each Participant acknowledges that he/she received from the Partnership and its Affiliates, at the inception of this Plan and continuing on an ongoing basis during the Participant's participation in the Plan, new Confidential Information and Specialized Training to which

the Participant has not previously had access. Any reference in this Section 8.8 to the Partnership shall be deemed to include all Affiliates of the Partnership.

(b) The Restrictive Covenants. Each Participant recognizes and agrees that: (i) the Partnership has devoted a considerable amount of time, effort, and expense to develop its Confidential Information and business goodwill; (ii) the Confidential Information and the Partnership's business goodwill are valuable assets to the Partnership; and (iii) any unauthorized use or disclosure of the Partnership's Confidential Information would cause irreparable harm to the Partnership and the Plan for which there is no adequate remedy at law, including damage to the Partnership's business goodwill. Accordingly, each Participant agrees that to protect the Confidential Information and business goodwill, it is necessary to enter into the following restrictive covenants, which are ancillary to the enforceable promises between the Plan and the Participant in Sections 6, 7, and 8.8(a). The Participant, either individually or as a principal, partner, stockholder, manager, agent, consultant, contractor, employee, lender, investor, or as a director or officer of any corporation or association, or in any other manner or capacity whatsoever, agrees that during the period in which the Participant is a participant in the Plan and for a period of one (1) year following the date on which the Participant ceases (for whatever reason) to be in Continuous Status as an Employee (the "***Non-Competition Period***"), the Participant shall not, whether directly or indirectly (excluding the activities of the Participant's spouse or other immediate family members independently engaged in such activities):

(i) Non-Solicitation. Solicit business, attempt to solicit business, or accept business in products or services competitive with products or services sold by any of the Applicable Entities, from any of the Applicable Entities' clients, customers, prospective or potential clients or customers, or those individuals or entities that any of the Applicable Entities did business with during the Participant's employment with the Partnership, with whom the Participant solicited or dealt with, in any capacity, while an employee in the Partnership during the twenty-four (24) months immediately proceeding the Non-Competition Period.

(ii) Non-Recruitment. Hire, solicit for employment, induce or encourage to leave the employment of any of the Applicable Entities or otherwise cease their employment with any of the Applicable Entities, any employee or any former employee of any of the Applicable Entities whose employment with any of the Applicable Entities ceased than less that six (6) months earlier.

(iii) Non-Competition. Within any market in which any of the Applicable Entities provided services or sold products during the twenty-four (24) months immediately proceeding the Non-Competition Period, become employed, advise, perform services or otherwise serve in any capacity with a Competing Business in which Participant would (a) perform similar duties to those performed while at the Partnership, (b) engage in or provide services to any client, customer, or prospective or potential clients or customers of any of the Applicable Entities or competitor of any of the Applicable Entities, (c) or provide services that are competitive with a product, service, process or development on which the Participant worked at the Partnership, or with which the Participant had access to Confidential Information while an employee with the Partnership. However, the Participant may own, directly or indirectly, solely as an investment, securities of any business traded on any national securities exchange or NASDAQ, provided that the Participant is not a controlling person of, or member of a group that controls such business, and provided further that the Participant does not, directly or indirectly, own three percent (3%) or more of any class of securities of such business. If the Partnership or an Affiliate Employer notifies that Participant in writing that he/she is being terminated as the result of a downsizing or reduction in force by the Partnership or Affiliate Employer, then this Section 8.8(b)(iii) shall not apply to that Participant after termination of that Participant's Continuous Status as an Employee.

(c) Remedies. The Participant acknowledges that the restrictions contained in this Section 8.8 are reasonable and necessary to protect the Partnership's legitimate business interests and business goodwill and that any violation of this Plan would result in irreparable injury to the Partnership. In the event of a breach by the Participant of any provision of this Section 8.8, the Plan shall, assuming the provisions of this Section 8.8(c) are applied and upheld, only be entitled to take the action set forth in this Section 8.8(c) as its sole remedy against the Participant for such breach. From the date of breach by the Participant, the Participant's entire Vested Account Balance shall automatically lapse and be forfeited and shall revert to the Plan. In the event any Vested Award has been exercised under Section 7 for any reason other than a Change in Control prior to engaging in competitive activity, unless otherwise provided in an Award Agreement, any amounts otherwise payable under this Plan or any Award Agreement to such Participant shall automatically lapse and be forfeited, and neither the Partnership nor any Affiliate shall have any obligation to make any further payment to such Participant with respect to this Plan, any Award Agreement, or any Award. From the date of breach by the Participant, the Plan shall have no obligation to make any further allocation of Cash Awards, Long-Term Incentive Units, or any other benefits under the Plan to Participant. In addition, the Partnership shall be entitled to (i) a refund from Participant of any payments the Partnership made to Participant pursuant to Section 9, plus (ii) the sum of the Partnership's attorneys' fees, costs and expenses related to the breach. The existence of any claim or cause of action by the Participant against the Plan or the Partnership, whether predicated on this Plan or otherwise, shall not constitute a defense to the enforcement of the provisions contained in this Section 8.9.

(d) Tolling. If a Participant violates any of the restrictions contained in Section 8.8, the Non-Competition Period shall be suspended and will not run in favor of the Participant until such time that the Participant cures the violation to the satisfaction of the Partnership, or for a period of three (3) years after the Participant's Continuous Status as an Employee ended, whichever period is shorter.

(e) Pre-conditional Obligation and Restoration. This Section 8.8 (the "***Non-Compete Article***") is material to this Plan, and this Non-Compete Article is a material and important component of the Plan. The enforceability of the Non-Compete Article is a precondition for the Participant's receipt of any benefits under the Plan, including, without limitation, Long-Term Incentive Units, Cash Awards, or any other awards or benefits. Should all or any part or application of the Non-Compete Article be held or found invalid or unenforceable for any reason whatsoever by a court or other constituted legal authority of competent jurisdiction in an action between a Participant and the Plan, that Participant and Plan agree as follows:

(i) That Participant's entire Vested Account Balance shall automatically lapse and be forfeited and shall revert to the Plan;

(ii) The Plan shall have no obligation to make any further allocation of Cash Awards, Long-Term Incentive Units, or any other benefits under the Plan to that Participant; and

(iii) In the event any Vested Award has been exercised under Section 7 for any reason other than a Change in Control prior to engaging in competitive activity, unless otherwise provided in an Award Agreement, any amounts otherwise payable under this Plan or any Award Agreement to that Participant shall automatically lapse and be forfeited, and neither the Partnership nor any Affiliate shall have any obligation to make any further payment to that Participant with respect to this Plan, any Award Agreement, or any Award.

Section 9. Payment of Account Balance.

9.1 Normal Form of Distribution; Time of Payment. Unless provided otherwise in an Award Agreement, payments to which a Participant (or his/her successor in interest) may be entitled under the Plan upon exercise of Vested Awards shall be made in a lump sum, subject to the provision of Section 9.2, and in cash (or cash equivalents) as determined by the Administrator and such payments shall begin within thirty (30) days after June 30 of the calendar year following the calendar year in which the Triggering Event occurs; *provided, however*,

(i) If the Triggering Event is a Change of Control, then payment shall begin upon the earlier of (A) one (1) year following the Change of Control, (B) the date the Partnership or Affiliate Employer terminates the Participant's Continuous Status as an Employee without Cause, (C) the date the Partnership or Affiliate Employer reduces the Participant's Compensation (as defined herein) to less than one hundred percent (100%) of his/her prior year's Compensation, or (D) the date either James D. Dondero or Mark K. Okada receives his first payment for his interest in the Partnership; *provided further*, the Plan may loan Participant funds that the Administrator deems necessary for that Participant to pay any federal income tax liability associated with that Change of Control;

(ii) In its discretion, the Administrator may begin payments to a Participant earlier than such date in the event of an Unforeseeable Emergency.

For purposes of this Section 9.1, ***"Compensation"*** means, with respect to any Participant for any calendar year, the sum of (i) that Participant's wages as reported by the Partnership or Affiliate Employer on an IRS Form W-2, (ii) all the Partnership's or Affiliate Employer's contributions to that Participant's 401(k) account, and (iii) any consideration paid to that Participant under that certain HCM Services Option Plan, dated June 28, 2001, as amended from time to time.

9.2 Limitation on Amount of Payment. Unless provided otherwise in an Award Agreement, the aggregate cash payments to a Participant under this Plan and the Amended and Restated Buy-Sell and Redemption Agreement by and among Highland Capital Management and its Limited Partners, dated February 29, 2004, as may be amended, supplemented or restated from time to time, will be limited to two hundred fifty thousand dollars ($250,000.00) per calendar quarter, and deferred balances will accrue simple interest at the appropriate "Applicable Federal Rate" determined by the Internal Revenue Service per annum until paid. Notwithstanding the foregoing, if the Triggering Event is a Change in Control and payments begin due to an event described in part (C) or (D) of Section 9.1(i), the payments to which a Participant may be entitled under the Plan will be fully distributed to the Participant on or before March 10 of the calendar year following the calendar year in which the Change in Control occurs.

9.3 Facility of Payment. If the Administrator determines that any person to whom a payment is due is unable to care for his/her affairs because of minority, or physical or mental disability, the Administrator will have the authority to cause the payments to be made to the spouse, brother, sister or other person the Administrator determines to have incurred, or to be expected to incur, expenses for that person unless a prior claim is made by a qualified guardian or other legal representative. Neither the Administrator nor the Partnership nor any of its Affiliates will be responsible to oversee the application of those payments. Payments made pursuant to this power will be a complete discharge of all liability under the Plan and the obligations of the Partnership, its Affiliates and the Administrator. Any amount payable to a minor under any provision of this Plan, including the foregoing provisions of this Section 9.3, may be paid directly to the minor or to a parent or qualified guardian or conservator. The receipt by the minor (or guardian or conservator) will be a complete discharge of all liability under the Plan and the obligations of the Partnership, its Affiliates and the Administrator.

Section 10. Limitation of Rights.

10.1 Limitation of Rights. Nothing in this Plan shall be construed:

(a) To give any Participant any right to be granted any Award other than at the sole and unfettered discretion of the Administrator;

(b) To disclose to any Participant the right to the formula, including any variables contained in the formula, used by the Administrator to value the Long-term Incentive Units;

(c) To disclose to any Participant the right to any financial information which the Administrator may have used to value the Long-term Incentive Units;

(d) To limit in any way the right of the Partnership or its Affiliates to terminate a Participant's employment with the Partnership and its Affiliates at any time; or

(e) To evidence any agreement or understanding, expressed or implied, that the Partnership or its Affiliates will employ a Participant in any particular capacity or for any particular remuneration.

10.2 No Control and Nature of Interest. The granting of an Award to a Participant under the provisions of the Plan represents only a right to receive compensation as specified solely by the terms of this Plan, as interpreted and administered by the Administrator. **Accordingly, except as otherwise expressly provided herein, the Plan grants no right to, or interest in, either express or implied, any equity position or ownership in the Partnership or continued employment by the Partnership, or its Affiliates.**

Furthermore, the Participant shall take no part in the control or management of the affairs of the Partnership, and shall not be entitled to any rights as a partner or shareholder of the Partnership, nor shall any Participant, acting either alone or in accord, have any right or authority to act for or bind the Partnership, or veto any action taken by the officers or directors of the Partnership, which is in excess of such management right or authority as is customarily appropriate with respect to the duties and responsibilities of the position held by such Participant in the normal course of his/her employment with the Partnership or its Affiliates.

Section 11. Amendment, Modification and Termination of Plan.

11.1 Amendment, Modification, and Termination of Plan. The Administrator may: (i) at any time terminate the Plan, and (ii) from time to time amend or modify the Plan, and (iii) from time to time amend or modify any outstanding Award Agreement; *provided, however*, no such action by the Administrator shall reduce the Vested Account Balance of any Participant. In the event it is determined that any provision in this Plan results in a violation of the requirements of Section 409A of the Code and any guidance issued hereunder, the Administrator shall have the power to unilaterally modify or eliminate such provision.

Section 12. Miscellaneous.

12.1 No Loans. Except as otherwise provided in Section 9.1(i), no loans of any kind shall be permitted under the Plan.

12.2 Alienation. No benefit provided by this Plan shall be transferable by the Participant except on the Participant's death by will or by the laws of descent and distribution. No right or benefit under this Plan shall be subject to anticipation, alienation, sale, assignment, pledge, encumbrance or charge. Any attempt to anticipate, alienate, sell, assign, pledge, encumber or charge any right or benefit under this Plan shall be void. No right or benefit under this Plan shall, in any manner, be liable for or subject to any debts, contracts, liabilities or torts of the person entitled to the right or benefit. If any Participant becomes bankrupt or attempts to anticipate, alienate, assign, pledge, sell, encumber or charge any right or benefit under this Plan, then the right or benefit shall, in the discretion of the Administrator, cease. In that event, the Partnership may hold or apply the right or benefit, or any part of the right or benefit, for the benefit of the Participant, his/her spouse, children, or dependents, the beneficiary or any of them, in the manner or in the proportion that the Administrator shall deem proper, in his/her sole discretion, but is not required to do so. The terms of the Plan and any Award Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of the Participant.

12.3 Tax Withholding. Payments under the Plan shall be subject to all applicable federal, state, and local tax withholding requirements. To the extent required by applicable federal, state, local or foreign law, a Participant shall make arrangements satisfactory to the Partnership or its Affiliate, if applicable, for the satisfaction of any required statutory federal, state, local and/or foreign withholding tax obligations that arise by reason of a payment under the Plan. Such obligations may, as authorized by the Administrator, consist of a cash payment made by the Participant to the Partnership or its Affiliate, if applicable, a reduction in salary payments to the Participant, withholding the required amount from such payments due pursuant to this Plan or any other form of consideration as authorized by the Administrator.

12.4 Changes in Capitalization. In the event of any merger, acquisition or other restructuring of the Partnership which does not result in a Change in Control or other Triggering Event, the number of Long-term Incentive Units that may be issuable under the Plan, the number of Long-term Incentive Units subject to outstanding awards, and/or the determination of the Account Balance under Section 8 may, at Administrator's discretion, be adjusted so that the proportionate interest of the Participant is maintained as before the occurrence of such event. Except as expressly provided herein, no issuance by the Partnership of shares of equity, or securities convertible or exchangeable into shares of equity of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number of Long-term Incentive Units issued and available under the Plan.

12.5 Unfunded Plan. The Plan shall be unfunded. The Partnership shall not be required to segregate any assets that may be represented by Long-term Incentive Units or Cash Awards; the Partnership shall not be deemed to be a trustee or fiduciary of any amounts to be paid from an Account. Any liability of the Partnership to pay any Participant with respect to Long-term Incentive Units or Cash Awards shall be based solely upon any contractual obligations created pursuant to the provisions of the Plan; no such obligation shall be deemed to be secured by any pledge or encumbrance on any property of the Partnership. However, the Partnership has the discretion at any time to segregate such assets that may be represented by Long-term Incentive Units or Cash Awards. The assets will at all times remain property of the Partnership. The Participants shall at all times be unsecured creditors of the Partnership.

12.6 Governing Law. The Plan, and all agreements hereunder, has been prepared, is being executed and delivered, and is intended to be performed, in the State of Texas, and, at the sole choice of the Partnership, the substantive laws of Texas, or the applicable law of the state in which the Participant performed services for the Partnership or its Affiliates, and the applicable federal laws of the

United States of America shall govern the validity, construction, enforcement, and interpretation of this Plan.

12.7 Successors and Assigns. This Plan shall be binding on the Partnership's successors and assigns.

Remainder of Page Intentionally Left Blank.
Signature Page To Follow.

IN WITNESS WHEREOF, Highland Capital Management, L.P. acting by and through its officer hereunto duly authorized, has executed this instrument this 5th day of January, 2005.

HIGHLAND CAPITAL MANAGEMENT L.P.
BY: STRAND ADVISORS, INC.

By: _____
James D. Dondero,
President

ATTEST:

_____
Name: Cathy Chambers
Title: _____

Patrick Daugherty
Date of Hire: 4/3/1998
Compensation and Benefits Statement

EARNINGS AND AWARDS

2011 Base Salary, as of 12/31/11	$ 500,000
2011 Combined Performance and Retention Bonus (breakdown below):	$ 1,500,000
2011 Performance Cash Bonus Award $ 750,000	

- The Performance Bonus will be paid on February 29, 2012 as an award for your 2011 performance

2011 Retention Bonus Award

- A Retention Bonus of $750,00 will be paid on each of the following date(s) as an employee retention incentive: August 31, 2012
- Employee must be employed on each payment date to receive Retention Bonus Award payments
- Termination, for any reason, results in forfeiture of unpaid installments

Tunstall:	25% of management fees
RCP II:	25% of management fees (10% for PE Team ex: Pat's 25%)
Cornerstone:	40% of Chairman/CEO compensation
REITs:	TBD
ıard Fees:	Keep 100% as allowed per Compliance

2011 Other Awards	
401K Match	$ 4,400
Profit Sharing (Estimated)	$ 19,845
2011 Total Earnings and Awards	**$ 2,024,245**

OTHER BENEFITS

TimeKeeper Usage Not Required
- Update TimeKeeper Through August 31, 2011

Working Summers in Montana
- Summer Defined as June 1 to August 15

Same PTO as Prior Years (24 Days Regular, 2 Floating, 2 Boondoggle)
- Input 2011 Vacation Per Policy

Medical & Dental Insurance	$ 18,504
Life, AD&D and Disability Insurance	$ 746
Executive Long Term Disability	$ 956
Executive MetLife Life Insurance	$ 8,763
Daily Catered Lunches	$ 3,000
Parking	$ 1,200
Cell Phone	$ 1,176
Gym Membership	$ 240
011 Estimated Total Value of Highland Paid Benefits	$ 34,585

DEFENDANT'S EXHIBIT 5A

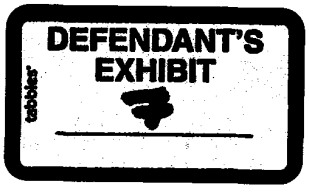
TOTAL COMPENSATION PACKAGE	$ 2,058,830

jdfhsh

From: Jim Dondero
Sent: Saturday, March 19, 2011 3:38 PM
To: Pat Daugherty; Timothy Lawler
Subject: RCP2 ppm and finalized tunstall LP agreement.....

Importance: High

Needs to be a priority this week, and I am very tired of asking for it.....



DAUGHERTY 001746

jdfhsh

From: Jim Dondero
Sent: Sunday, March 20, 2011 10:38 PM
To: Pat Daugherty
Subject: RE: URGENT: FOR REVIEW AND COMPLETION NO LATER THAN FRI 3/18: "Final" Tunstall Advisor LPA

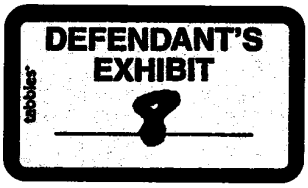
Lets try to punch this out and then there is a few hundred k coming your way.....

-----Original Message-----
From: Thomas Surgent
Sent: Thursday, March 17, 2011 6:57 PM
To: Pat Daugherty
Cc: Jim Dondero
Subject: URGENT: FOR REVIEW AND COMPLETION NO LATER THAN FRI 3/18: "Final" Tunstall Advisor LPA
Importance: High

See revised version attached, which should capture the final agreement. There are not many changes, so it should only take a few minutes to flip through it. Jim wants this final tomorrow.

Call me any time with any comments or issues.

Thomas J. Surgent
Assistant General Counsel
Highland Capital Management, L.P.
13455 Noel Road, Suite 800
Dallas, Texas 75240
(972) 419-6205 office
(972) 339-8899 mobile
(972) 628-4147 fax
tsurgent@hcmlp.com



Prepared:5/6/2011

Award Year		Base	Bonus	Install-ments	Spot Bonus	Tax Refund (estimated)	Option IT	STIP	Vessel	HFP	LTIP	NexBank (2004)	401K Match & P/S	DB	Loan Forgiveness	Board Fees	Nominal Total	W-2 Total
	2004											$ 450,012						
Feb	2006	$ 250,000	$ 1,286,600	4	TBD		$ 500,000			$ 500,000	$ -			$ 56,366		N/A	$ 2,592,970	$1,886,685
Feb	2007	$ 250,000	$ 623,334	4	$ 37,500		$ 3,300,000				$ -			$ 59,748		N/A	$ 4,270,586	TBD
Feb	2008	$ 250,000	$ 761,502	-	$ 37,500			$ 3,900,000			$ 2,001	Note 5	$ 28,750	$ 64,320		N/A	$ 5,044,076	$1,059,422
Feb	2009	$ 333,333			$ -	$ 1,475,816			$ 2,076,479		$ 8,304		$ 4,000		$ 506,354	N/A	$ 4,404,286	$1,359,940
Feb	2010	$ 500,000	$ 1,473,750	2	$ 50,000						$ 1,253		$ 26,250			$ 87,500	$ 2,138,755	$1,794,410
Feb	2011	$ 500,000	$ 1,390,000	4	$ -			See Note 2	See Note 4		$ -		$ 24,245				$ 1,914,249	N/A
CURRENT/PAY OUT VALUE							$ 929,000	$ 493,638	$ 3,176,430	$ -		$ 184,431			$ 506,354	$ 87,500		

Notes:

1. Dollar amounts reflect value on award date

2. 90% STIP payout in March 2011 ($444 k) ; remaining 10% ($49 k) in May 2011; see STIP Payout tab for details

3. Does not include "PE Comp Vehicle" or Tunstall. The estimated 2010 net income for Tunstall is approximately $1.5 M. Pat's 25% is $375 K.

4. Pat was awarded approximately 340 additional Vessel Units as participants left HCMLP and he was reallocated a portion of their Units

The value of these additional Vessel Units is approximately $500 K

5. Received tax distribution of $51 K for 2007 taxes related to NexBank shares

Collins
EXHIBIT NO. 25
M. FOLKS

DEFENDANT'S EXHIBIT 7

DAUGHERTY 001343

001683

PDADV_004444

Prepared:5/4/2011

Award Year		Base	Bonus	Install-ments	Spot Bonus	Tax Refund (estimated)	Option IT	STIP	Vessel	HFP	LTIP	NexBank (2004)	401K Match & P/S	DB	Loan Forgiveness	Board Fees	Nominal Total	W-2 Total
	2004											$ 450,012						
Feb	2006	$ 250,000	$ 1,286,600	4	TBD		$ 500,000			$ 500,000	$ -			$ 56,366		N/A	$ 2,592,970	$1,886,685
Feb	2007	$ 250,000	$ 623,334	4	$ 37,500		$ 3,300,000				$ -			$ 59,748		N/A	$ 4,270,586	TBD
Feb	2008	$ 250,000	$ 761,502	3	$ 37,500			$ 3,900,000			$ 2,001	Note 5	$ 28,750	$ 64,320		N/A	$ 5,044,076	$1,059,422
Feb	2009	$ 333,333			$ -	$ 1,475,816			$ 2,076,479		$ 8,304		$ 4,000		$ 506,354	N/A	$ 4,404,286	$1,359,940
Feb	2010	$ 500,000	$ 1,473,750	2	$ 50,000						$ 1,253		$ 26,250			$ 87,500	$ 2,138,755	$1,794,410
Feb	2011	$ 500,000	$ 1,390,000	4	$ -			See Note 2	See Note 4		$ -		$ 24,245				$ 1,914,249	N/A
CURRENT/PAY OUT VALUE							$ 929,000	$ 493,638	$ 3,176,430	$ -		$ 184,431						

Notes:

1. Dollar amounts reflect value on award date

2. 90% STIP payout in March 2011 ($444 k) ; remaining 10% ($49 k) in May 2011; see STIP Payout tab for details

3. Does not include "PE Comp Vehicle" or Tunstall. The estimated 2010 net income for Tunstall is approximately $1.5 M. Pat's 25% is $375 K.

4. Pat was awarded approximately 340 additional Vessel Units as participants left HCMLP and he was reallocated a portion of their Units

The value of these additional Vessel Units is approximately $500 K

5. Received tax distribution of $51 K for 2007 taxes related to NexBank shares

Patrick Daugherty
Date of Hire: 4/1/1998
Compensation and Benefits Statement

EARNINGS AND AWARDS

2011 Base Salary, as of 12/31/11	$ 500,000
2011 Combined Performance and Retention Bonus (breakdown below):	$ 1,500,000
2011 Performance Cash Bonus Award $ 750,000	

- The Performance Bonus will be paid on February 29, 2012 as an award for your 2011 performance

2011 Retention Bonus Award

- A Retention Bonus of $750,00 will be paid on each of the following date(s) as an employee retention incentive: August 31, 2012
- Employee must be employed on each payment date to receive Retention Bonus Award payments
- Termination, for any reason, results in forfeiture of unpaid installments

Tunstall:	25% of management fees
RCP II:	25% of management fees (10% for PE Team ex: Pat's 25%)
Cornerstone:	~~40% of Chairman/CEO compensation~~
REITs:	~~Minimum of 15%~~
Board Fees:	Keep ~~100%~~ as allowed per Compliance

No, I want you to do what you said you were going to do.

Pat is Trusting me

2011 Other Awards	
401K Match	$ 4,400
Profit Sharing (Estimated)	$ 19,845
2011 Total Earnings and Awards	**$ 2,024,245**

OTHER BENEFITS

TimeKeeper Usage Not Required
- Update TimeKeeper Through August 31, 2011

Working Summers in Montana
- Summer Defined as June 1 to August 15

Same PTO as Prior Years (24 Days Regular, 2 Floating, 2 Boondoggle)
- Input all Vacation Per Policy

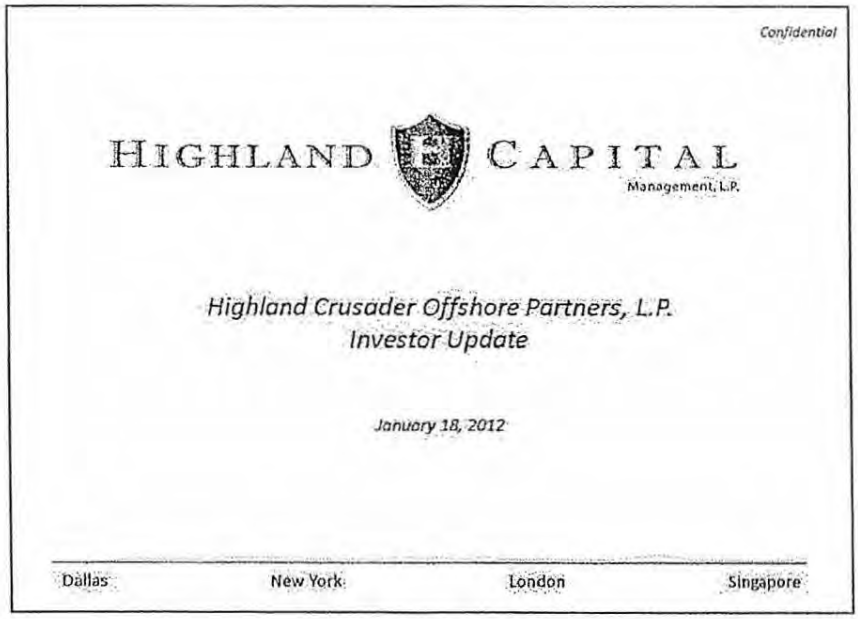
Medical & Dental Insurance	$ 18,504
Life, AD&D and Disability Insurance	$ 746
Executive Long Term Disability	$ 956
Executive MetLife Life Insurance	$ 8,763
Daily Catered Lunches	$ 3,000
Parking	$ 1,200
Cell Phone	$ 1,176
Gym Membership	$ 240
2011 Estimated Total Value of Highland Paid Benefits	$ 34,585

Dondero
EXHIBIT NO. 16
M. FOLKS

TOTAL COMPENSATION PACKAGE $ 2,058,830

DEFENDANT'S EXHIBIT 16

PLAINTIFFS-0788175



Confidential

HIGHLAND CAPITAL
Management, L.P.

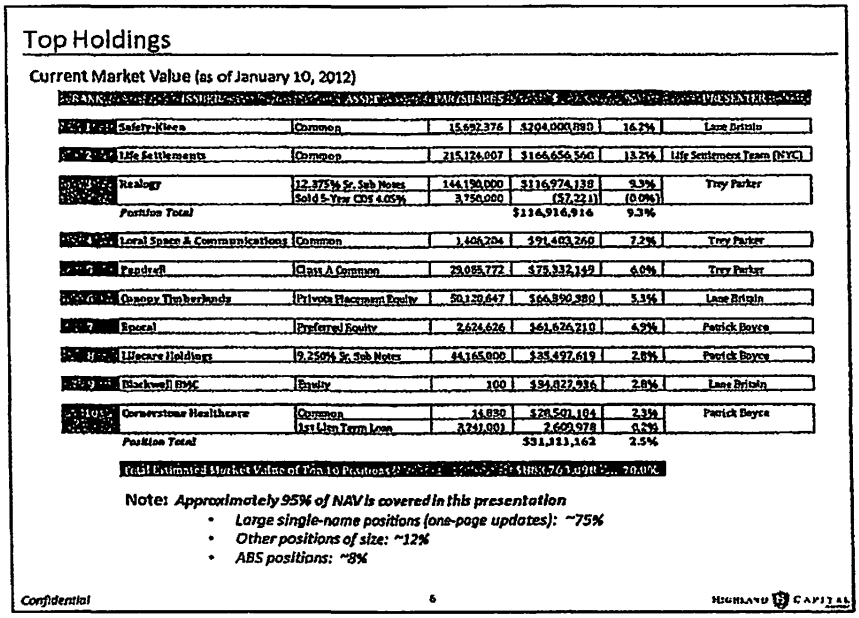
Highland Crusader Offshore Partners, L.P.
Investor Update

January 18, 2012

Dallas New York London Singapore

DEFENDANT'S EXHIBIT 33A

PLAINTIFFS 0765741



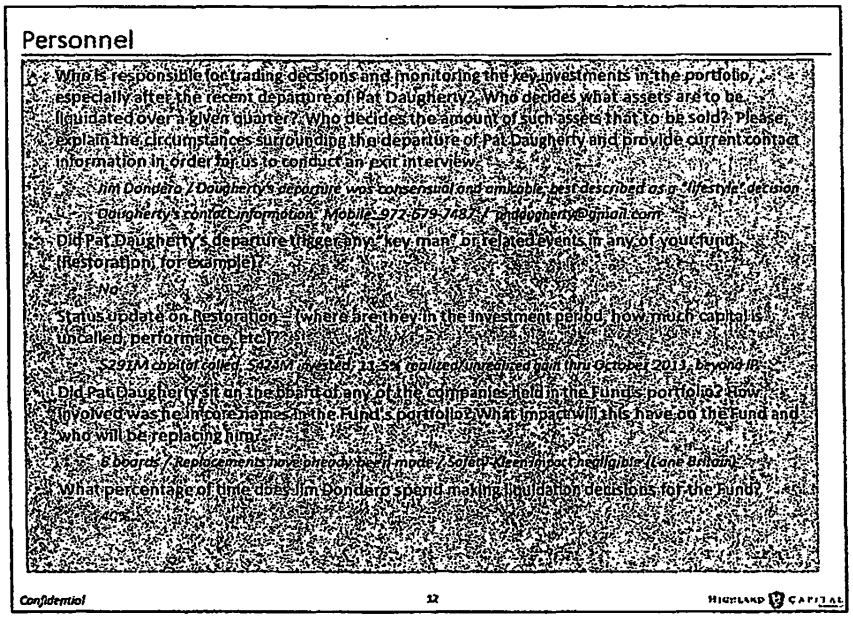
Top Holdings

Current Market Value (as of January 10, 2012)

RANK	Issuer	ISSUE	ASSET	PAR/SHARES	VALUE	% NAV	INVESTMENT MANAGER
[redacted]	Safety-Kleen	Common		15,697,376	$204,000,880	16.2%	Lane Britain
[redacted]	Life Settlements	Common		215,126,007	$166,656,360	13.2%	Life Settlement Team (NYC)
[redacted]	Realogy	12.375% Sr. Sub Notes		144,150,000	$116,974,138	9.3%	Trey Parker
		Sold 5-Yr CDS 4.05%		3,750,000	(57,221)	(0.0%)	
	Position Total				$116,916,916	9.3%	
[redacted]	Local Space & Communications	Common		1,406,204	$91,403,260	7.2%	Trey Parker
[redacted]	Penwell	Class A Common		29,085,772	$75,332,149	6.0%	Trey Parker
[redacted]	Canopy Timberlands	Private Placement Equity		50,120,647	$66,890,380	5.3%	Lane Britain
[redacted]	Epocal	Preferred Equity		2,624,626	$61,626,210	4.9%	Patrick Boyce
[redacted]	Lifecare Holdings	9.250% Sr. Sub Notes		44,165,000	$35,497,619	2.8%	Patrick Boyce
[redacted]	Blackwell BMC	Equity		100	$34,027,936	2.8%	Lane Britain
[redacted]	Cornerstone Healthcare	Common		14,830	$28,501,104	2.3%	Patrick Boyce
		1st Lien Term Loan		3,241,001	2,669,978	0.2%	
	Position Total				$31,313,162	2.5%	
[redacted]	Total Estimated Market Value of Top 10 Positions				$[redacted]	70.0%	

Note: *Approximately 95% of NAV is covered in this presentation*

- *Large single-name positions (one-page updates): ~75%*
- *Other positions of size: ~12%*
- *ABS positions: ~8%*



Personnel

- Who is responsible for trading decisions and monitoring the key investments in the portfolio, especially after the recent departure of Pat Daugherty? Who decides what assets are to be liquidated over a given quarter? Who decides the amount of such assets that to be sold? Please, explain the circumstances surrounding the departure of Pat Daugherty and provide current contact information in order for us to conduct an exit interview.
  - *Jim Dondero / Daugherty's departure was consensual and amicable, best described as a "lifestyle" decision*
  - *Daugherty's contact information: Mobile: 972-679-7487 / / pjdaugherty@gmail.com*
- Did Pat Daugherty's departure trigger any "key man" or related events in any of your fund (restoration, for example)?
  - *No*
- Status update on Restoration – (where are they in the investment period, how much capital is uncalled, performance, PIC)?
  - *$291M capital called, $42M invested, 11.5% realized/unrealized gain thru October 2011, beyond IP*
- Did Pat Daugherty sit on the board of any of the companies held in the Fund's portfolio? How involved was he in core items in the Fund's portfolio? What impact will this have on the Fund and who will be replacing him?
  - *6 boards / Replacements have already been made / Soleil-Keen Import ineligible (Lone Britain)*
- What percentage of time does Jim Dondero spend making liquidation decisions for the Fund?

EXHIBIT 9

FIRST AMENDMENT TO THE
SECOND AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
HIGHLAND CAPITAL MANAGEMENT, L.P.
A Delaware Limited Partnership

This First Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., a Delaware limited partnership (this "***Amendment***") is made and entered into to be effective as of the 15th day of April, 2006 (the "***Effective Date***"), by the General Partner of Highland Capital Management, L.P.

WITNESSETH:

WHEREAS, the General Partner of Highland Capital Management, L.P., a Delaware limited partnership (the "***Partnership***") acting pursuant to that Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated to be effective as of February 29, 2004, as amended (the "***Agreement***"), desires to amend the Agreement as set forth herein (except as otherwise provided herein, all capitalized terms used herein shall have the meaning set forth in the Agreement);

WHEREAS, pursuant to Section 3.7(f) of the Agreement, the General Partner "booked-up" the Capital Accounts of the Partners as of January 1, 2006, and the General Partner desires to make certain other revisions to the Agreement associated therewith;

WHEREAS, pursuant to Section 4.4(a) and 4.4(b) of the Agreement, the General Partner has the right to authorize the issuance of Partnership Interests to new and existing Limited Partners, and on February 28, 2005, the Partnership issued the following Partnership Interests that are treated as "profits interests" for federal income tax purposes to the following Persons who agreed to provide services to the Partnership: (i) a 0.071% interest as a Limited Partner to Bradford Borud; (ii) a 0.109% interest as a Limited Partner to Patrick Daugherty; (iii) a 0.089% interest as a Limited Partner to David Deadman; (iv) a 0.103% interest as a Limited Partner to R. Joseph Dougherty; (v) a 0.100% interest as a Limited Partner to Paul Kauffman; (vi) a 0.095% interest as a Limited Partner to John Morgan; (vii) a 0.077% interest as a Limited Partner to Kurtis Plumer; (viii) a 0.174% interest as a Limited Partner to James Pope; (ix) a 0.131% interest as a Limited Partner to Todd A. Travers; (x) a 0.072% interest as a Limited Partner to David Walls; and (xi) a 0.0370% interest as a Limited Partner to John Yang;

WHEREAS, pursuant to Section 19 of the Amended and Restated Buy-Sell and Redemption Agreement among the Partnership and its Limited Partners, dated December 31, 2004, as amended, the General Partner has the authority to cause the Partnership to redeem the Partnership Interests of certain Limited Partners, and effective July 15, 2005, the Partnership desires to redeem a portion of the Partnership Interests of certain Limited Partners as follows: (i) a 0.037% interest as a Limited Partner from Bradford Borud; (ii) 0.127% interest as a Limited Partner from David Deadman; (iii) a 0.075% interest as a Limited Partner from John Morgan; (iv) 0.101% interest as a Limited Partner from Kurtis Plumer, (v) a 0.038% interest as a Limited Partner from Todd Travers, and (vi) a 0.041% interest as a Limited Partner from David Walls;

WHEREAS, on February 28, 2006, the Partnership issued the following Partnership Interests that are treated as "profits interests" for federal income tax purposes to the following Persons who agreed to provide services to the Partnership: (i) a 0.032% interest as a Limited Partner to Bradford Borud; (ii) a 0.053% interest as a Limited Partner to Patrick Daugherty; (iii) a 0.007% interest as a Limited Partner to David Deadman; (iv) a 0.038% interest as a Limited Partner to R. Joseph Dougherty; (v) a 0.027% interest as a Limited Partner to Paul Kauffman; (vi) a 0.077% interest as a Limited Partner to John Morgan; (vii) a 0.045% interest as a Limited Partner to Kurtis Plumer; (viii) a 0.078% interest as a Limited Partner to James Pope; (ix) a 0.070%

Exhibit
H-9
Daugherty 1/29/2026 L.M.

interest as a Limited Partner to Todd A. Travers; (x) a 0.068% interest as a Limited Partner to David Walls; and (xi) a 0.383% interest as a Limited Partner to John Yang;

WHEREAS, the Partnership shall continue under the terms of the Agreement as amended pursuant to this Amendment.

NOW, THEREFORE, BE IT RESOLVED, the parties hereto hereby agree as follows:

1. The following new Section 3.7(h) shall be added:

"(h) Capital Accounts for Each Partner

(i) The Partners hereby acknowledge that, on February 28, 2005, the Partnership "booked-up" the Capital Account of each Partner to its fair market value, and the resulting increase or decrease in the Capital Accounts of each Partner was treated as a Code Section 704(c) item. As of February 28, 2005, the "book" Capital Account for each Partner is set forth below:

Strand Advisors, Inc.	$4,357,636
Brad Borud	$1,014,920
The Canis Minor Trust	$43,576,358
Patrick Daugherty	$2,037,360
Davis Deadman	$1,825,134
James D. Dondero	$37,432,237
R. Joseph Dougherty	$1,842,317
The Get Good Trust	$52,291,629
The Get Better Trust	$189,164,823
Paul Kauffman	$1,306,761
The Mark and Pamela Okada Family Trust-Exempt #1	$30,503,450
The Mark and Pamela Okada Family Trust-Exempt #2	$13,072,907
John Morgan	$942,659
Mark K. Okada	$65,064,537
Kurtis Plumer	$1,427,214
Todd A. Travers	$2,092,963
David Walls	$681,060
John Yang	$1,366,035
TOTAL	$450,000,000

(ii) The Partners hereby acknowledge that, on January 1, 2006 (after the Partnership's issuance of Partnership Interests to Profits Interest Partners on February 29, 2005 and after the redemption of a portion of the Partnership Interests of certain Limited Partners on July 15, 2005), the Partnership "booked-up" the Capital Account of each Partner to its fair market value, and the resulting increase or decrease in the Capital Accounts of each Partner was treated as a Code Section 704(c) item. As of January 1, 2006, the "book" Capital Account for each Partner is set forth below:

Strand Advisors, Inc.	$6,474,644
Brad Borud	$1,682,961
The Canis Minor Trust	$63,511,297
The Canis Major Trust	$65,519,123
Patrick Daugherty	$3,722,129
Davis Deadman	$2,585,996
R. Joseph Dougherty	$3,379,045
The Get Good Trust	$76,095,479
The Get Better Trust	$264,739,621
Paul Kauffman	$2,463,611
The Mark and Pamela Okada Family Trust-Exempt #1	$45,496,463
The Mark and Pamela Okada Family Trust-Exempt #2	$18,812,770
John Morgan	$1,401,385
Mark K. Okada	$94,515,006
Kurtis Plumer	$2,032,323
James Pope	$434,852
Todd A. Travers	$3,655,883
David Walls	$1,095,944
John Yang	$2,381,469
TOTAL	$660,000,000

(iii) The Partners hereby acknowledge that, on April 15, 2006 (after the Partnership issued additional Partnership Interests to each Partner on February 28, 2006 and made a tax distribution to each Partner on April 15, 2006), the Partnership "booked-up" the Capital Account of each Partner to its fair market value, and the resulting increase or decrease in the Capital Accounts of each Partner was treated as a Code Section 704(c) item. As of April 15, 2006, the "book" Capital Account for each Partner is set forth below:

Strand Advisors, Inc.	$6,469,952
Brad Borud	$1,712,501
The Canis Minor Trust	$63,464,379
The Canis Major Trust	$65,471,054
Patrick Daugherty	$3,783,851
Davis Deadman	$2,627,169
R. Joseph Dougherty	$3,434,436
The Get Good Trust	$76,039,177
The Get Better Trust	$264,543,714
Paul Kauffman	$2,505,001
The Mark and Pamela Okada Family Trust-Exempt #1	$45,463,620
The Mark and Pamela Okada Family Trust-Exempt #2	$18,798,694
John Morgan	$1,431,629
Mark K. Okada	$94,444,628
Kurtis Plumer	$2,068,191
James Pope	$455,042
Todd A. Travers	$3,719,004
David Walls	$1,120,141
John Yang	$2,447,819
TOTAL	$660,000,000

2. Section 3.2(b)(ii) shall be deleted in it entirety and replaced with the following:

"(ii) Next, to the Partners in proportion to their respective positive Capital Account balances until the aggregate Capital Account balances of the Partners (excluding any negative Capital Account balances) equal zero; *provided, however*, losses shall be deemed to first reduce amounts that were last allocated to the Capital Accounts of the Partners; and"

3. The following proviso shall be added in the ninth line of Section 3.9(a), immediately before the "provided, however":

"(and such distributions shall be allocated against increases in Capital Accounts in proportion in which they occurred)"

4. The following sentence shall be added at the end of Section 3.9(a):

"Distributions shall be deemed to first reduce amounts that were first added to the Capital Accounts of the Partners (i.e., a first-in, first-out approach)."

5. The following new Section 4.1(l) shall be added:

"The General Partner may, from time to time, designate one or more Persons to be officers of the Company. No officer need be a Partner. Any officers so designated shall have such authority and perform such duties as the General Partner may, from time to time, delegate to them. The General Partner may assign titles to particular officers, including, without limitation, president, vice president, secretary, assistant secretary, treasurer and assistant treasurer. Each officer shall hold office until such Person's successor shall be duly designated and shall qualify or until such Person's death or until such Person shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same Person. The salaries or other compensation, if any, of the officers and agents of the Partnership shall be fixed from time to time by the General Partner. Any officer may be removed as such, either with or without cause, by the General Partner whenever in the General Partner's judgment the best interests of the Partnership will be served thereby. Any vacancy occurring in any office of the Partnership may be filled by the General Partner."

6. Section 4.4(a) shall be deleted in its entirety. The following new Section 4.4(a) shall be added:

(a) Issuance of Partnership Interests to New Limited Partners. The General Partner may admit one or more additional Persons as Limited Partners ("***Additional Limited Partners***") to the Partnership at such times and upon such terms as it deems appropriate in its sole and unfettered discretion. Upon the admission of any Additional Limited Partner, the Percentage Interest of the members of the Founding Partner Group shall be diluted proportionately. No Person may be admitted to the Partnership as a Limited Partner until he/she/it executes an Addendum to this Agreement in the form attached as Exhibit B (which may be modified by the General Partner in its sole and unfettered discretion) and an addendum to the Amended Buy-Sell and Redemption Agreement.

7. Section 4.4(b) shall be deleted in its entirety. The following new Section 4.4(b) shall be added:

(b) Issuance of an Additional Partnership Interest to an Existing Partner. The General Partner may issue an additional Partnership Interest to any existing Partner at such times and upon such terms as it deems appropriate in its sole and unfettered discretion. Upon the issuance of an additional Partnership Interest to an existing Partner, the Percentage Interests of the members of the Founding Partner Group shall be diluted proportionately. Any additional Partnership Interest shall be subject to all the terms and conditions of this Agreement and the Amended Buy-Sell and Redemption Agreement.

8. Exhibit A and Exhibit C of the Agreement shall be deleted in their entirety and replaced with the attached Exhibit A and Exhibit C.

9. Except to the extent modified or amended by this Amendment, all terms and provisions of the Agreement shall continue in full force and effect and shall remain enforceable and binding in accordance with their respective terms.

10. Any required notices, meetings or consents that are necessary to make an amendment to the Agreement are hereby waived or satisfied.

11. Each party hereto shall take whatever other action is required to give full effect to the provisions of this Amendment, including the acquisition by any Partner of any consent to the action provided for herein.

12. This Amendment may be executed in any number of counterparts, all of which taken together shall constitute one and the same Amendment, and any parties to this Amendment may execute this Amendment by signing any one of the counterparts. Any counterpart of this Amendment may be executed via facsimile transmission.

Remainder of Page Intentionally Left Blank.
Signature Page Follows.

IN WITNESS WHEREOF, the undersigned has executed this Amendment as of the day and year above written.

GENERAL PARTNER:

STRAND ADVISORS, INC.,
a Delaware corporation

By: _____
James D. Dondero,
President

EXHIBIT A

Partnership Percentage Interests

GENERAL PARTNER:	Percentage Interest
Strand Advisors, Inc.	0.941%
LIMITED PARTNERS:	
Bradford Borud	0.368%
Canis Minor Trust	9.415%
Canis Major Trust	9.646%
Patrick Daugherty	0.770%
Davis Deadman	0.513%
R. Joseph Dougherty	0.691%
The Get Good Trust	11.298%
The Get Better Trust	39.312%
Paul Kauffman	0.516%
The Mark and Pamela Okada Family Trust-Exempt #1	6.590%
The Mark and Pamela Okada Family Trust-Exempt #2	2.824%
John Morgan	0.377%
Mark K. Okada	14.122%
Kurtis Plumer	0.447%
James Pope	0.252%
Todd A. Travers	0.787%
David Walls	0.302%
John Yang	0.828%
TOTAL	100.0%

EXHIBIT C

Maximum Available Loan Amounts to Profits Interest Partners Pursuant to Section 4.1(e)(v)

Profits Interest Partner:	Maximum Loan Amount
Bradford Borud	
Patrick Daugherty	
Davis Deadman	
R. Joseph Dougherty	
Paul Kauffman	
John Morgan	
Kurtis Plumer	
James Pope	
Todd A. Travers	
David Walls	
John Yang	
James Pope	

EXHIBIT 10

**SECOND AMENDMENT TO THE
SECOND AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
HIGHLAND CAPITAL MANAGEMENT, L.P.
A Delaware Limited Partnership**

This Second Amendment to the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., a Delaware limited partnership (this "***Amendment***") is made and entered into to be effective as of the 15th day of April, 2007 (the "***Effective Date***"), by the General Partner of Highland Capital Management, L.P.

WITNESSETH:

WHEREAS, the General Partner of Highland Capital Management, L.P., a Delaware limited partnership (the "***Partnership***") acting pursuant to that Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated to be effective as of February 29, 2004, as amended (the "***Agreement***"), desires to amend the Agreement as set forth herein (except as otherwise provided herein, all capitalized terms used herein shall have the meaning set forth in the Agreement);

WHEREAS, pursuant to Section 3.7(f) of the Agreement, the General Partner "booked-up" the Capital Accounts of the Partners of the Partnership on each of the following dates: October 15, 2006, February 28, 2007, and April 15, 2007 and the General Partner desires to make revisions to the Agreement associated therewith;

WHEREAS, pursuant to Section 4.4(a) and 4.4(b) of the Agreement, the General Partner has the right to authorize the issuance of Partnership Interests to new and existing Limited Partners, and on February 28, 2007, the Partnership issued the following Partnership Interests that are treated as "profits interests" for federal income tax purposes to the following Persons who agreed to provide services to the Partnership: (i) a 0.028% interest as a Limited Partner to Bradford Borud; (ii) a 0.013% interest as a Limited Partner to Patrick Daugherty; (iii) a 0.007% interest as a Limited Partner to Davis Deadman; (iv) a 0.013% interest as a Limited Partner to R. Joseph Dougherty; (v) a 0.007% interest as a Limited Partner to Paul Kauffman; (vi) a 0.022% interest as a Limited Partner to John Morgan; (vii) a 0.027% interest as a Limited Partner to Kurtis Plumer; (viii) a 0.047% interest as a Limited Partner to James Pope; (ix) a 0.020% interest as a Limited Partner to Todd A. Travers; (x) a 0.043% interest as a Limited Partner to David Walls; (xi) a 0.104% interest as a Limited Partner to John Yang; (xii) a 0.029% interest as a Limited Partner to John Honis; and (xiii) a 0.021% interest as a Limited Partner to Patrick Conner;

WHEREAS, the Partnership shall continue under the terms of the Agreement as amended pursuant to this Amendment.

NOW, THEREFORE, BE IT RESOLVED, the parties hereto hereby agree as follows:

1. The following new Section 3.7(h) shall be added:

"(h) Capital Accounts for Each Partner

(i) The Partners hereby acknowledge that, on October 15, 2006, the Partnership "booked-up" the Capital Account of each Partner to its fair market value, and the resulting increase or decrease in the Capital Accounts of each Partner was treated as a Code

Exhibit
H-10
Daugherty 1/29/2026 L.M.

Section 704(c) item. As of October 15, 2006, the "book" Capital Account for each Partner is set forth below:

Strand Advisors, Inc.	$7,791,791.83
Brad Borud	$2,237,521.56
The Canis Minor Trust	$76,682,775.09
The Canis Major Trust	$79,013,648.93
Patrick Daugherty	$4,880,808.00
Davis Deadman	$3,358,856.13
R. Joseph Dougherty	$4,418,857.51
The Get Good Trust	$91,901,252.32
The Get Better Trust	$319,311,373.17
Paul Kauffman	$3,240,581.48
The Mark and Pamela Okada Family Trust-Exempt #1	$54,856,497.76
The Mark and Pamela Okada Family Trust-Exempt #2	$22,824,213.33
John Morgan	$1,969,229.67
Mark K. Okada	$114,072,222.65
Kurtis Plumer	$2,705,675.90
Todd A. Travers	$4,840,844.11
David Walls	$1,550,276.80
John Yang	$3,529,594.20
James Pope	$813,979.56
TOTAL	**$800,000,000.00**

(ii) The Partners hereby acknowledge that, on February 28, 2007 (after the Partnership issued additional Partnership Interests to certain Partners on February 28, 2007), the Partnership "booked-up" the Capital Account of each Partner to its fair market value, and the resulting increase or decrease in the Capital Accounts of each Partner was treated as a Code Section 704(c) item. As of February 28, 2007, the "book" Capital Account for each Partner is set forth below:

Strand Advisors, Inc.	$12,672,773.96
Brad Borud	$4,245,939.16
The Canis Minor Trust	$125,492,596.34
The Canis Major Trust	$129,020,389.43
Patrick Daugherty	$9,077,119.71
Davis Deadman	$6,157,861.10
R. Joseph Dougherty	$8,184,672.84
The Get Good Trust	$150,473,037.82
The Get Better Trust	$523,115,703.17
Paul Kauffman	$6,054,480.42
The Mark and Pamela Okada Family Trust-Exempt #1	$89,023,372.64
The Mark and Pamela Okada Family Trust-Exempt #2	$37,467,159.71
John Morgan	$4,025,773.35
Mark K. Okada	$187,286,954.53
Kurtis Plumer	$5,144,318.54
Todd A. Travers	$9,132,344.01
David Walls	$3,195,721.96
John Yang	$8,042,719.43

James Pope $2,187,061.87

TOTAL $1,320,000,000.00

(iii) The Partners hereby acknowledge that, on April 15, 2007 (after the Partnership made distributions to certain Partners on April 15, 2007), the Partnership "booked-up" the Capital Account of each Partner to its fair market value, and the resulting increase or decrease in the Capital Accounts of each Partner was treated as a Code Section 704(c) item. As of April 15, 2007, the "book" Capital Account for each Partner is set forth below:

Strand Advisors, Inc. $12,661,116.60
Brad Borud $4,320,072.91
The Canis Minor Trust $125,376,022.75
The Canis Major Trust $128,919,134.88
Patrick Daugherty $9,195,662.97
Davis Deadman $6,235,129.25
R. Joseph Dougherty $8,292,161.75
The Get Good Trust $150,333,149.51
The Get Better Trust $522,610,775.06
Paul Kauffman $6,132,131.02
The Mark and Pamela Okada Family Trust-Exempt #1 ..... $88,941,771.13
The Mark and Pamela Okada Family Trust-Exempt #2 ..... $37,432,187.63
John Morgan $4,096,114.89
Mark K. Okada $187,112,094.14
Kurtis Plumer $5,228,857.28
Todd A. Travers $9,258,726.39
David Walls $3,273,040.54
John Yang $8,242,527.88
James Pope $2,259,961.09
John Honis $23,296.08
Patrick Conner $56,066.25

TOTAL $1,320,000,000.00

2. Exhibit A and Exhibit C of the Agreement shall be deleted in their entirety and replaced with the attached Exhibit A and Exhibit C.

3. Except to the extent modified or amended by this Amendment, all terms and provisions of the Agreement shall continue in full force and effect and shall remain enforceable and binding in accordance with their respective terms.

4. Any required notices, meetings or consents that are necessary to make an amendment to the Agreement are hereby waived or satisfied.

5. Each party hereto shall take whatever other action is required to give full effect to the provisions of this Amendment, including the acquisition by any Partner of any consent to the action provided for herein.

6. This Amendment may be executed in any number of counterparts, all of which taken together shall constitute one and the same Amendment, and any parties to this Amendment may execute this Amendment by signing any one of the counterparts. Any counterpart of this Amendment may be executed via facsimile transmission.

Remainder of Page Intentionally Left Blank.
Signature Page Follows.

IN WITNESS WHEREOF, the undersigned has executed this Amendment as of the day and year above written.

GENERAL PARTNER:

STRAND ADVISORS, INC.,
a Delaware corporation

By: _____
James D. Dondero,
President

EXHIBIT A

Partnership Percentage Interests

GENERAL PARTNER:	Percentage Interest
Strand Advisors, Inc.	0.937%
LIMITED PARTNERS:	
Bradford Borud	0.396%
Canis Minor Trust	9.372%
Canis Major Trust	9.624%
Patrick Daugherty	0.783%
Davis Deadman	0.520%
R. Joseph Dougherty	0.704%
The Get Good Trust	11.246%
The Get Better Trust	39.110%
Paul Kauffman	0.523%
The Mark and Pamela Okada Family Trust-Exempt #1	6.560%
The Mark and Pamela Okada Family Trust-Exempt #2	2.812%
John Morgan	0.399%
Mark K. Okada	14.058%
Kurtis Plumer	0.474%
James Pope	0.298%
Todd A. Travers	0.807%
David Walls	0.345%
John Yang	0.931%
John Honis	0.029%
Patrick Conner	0.069%
TOTAL	**100.0%**

EXHIBIT C

Maximum Available Loan Amounts to Profits Interest Partners Pursuant to Section 4.1(e)(v)

Profits Interest Partner:	Maximum Loan Amount
Bradford Borud	
Patrick Daugherty	
Davis Deadman	
R. Joseph Dougherty	
Paul Kauffman	
John Morgan	
Kurtis Plumer	
James Pope	
Todd A. Travers	
David Walls	
John Yang	
James Pope	
John Honis	
Patrick Conner	

001705
DAUGHERTY ROGS01407749

EXHIBIT 11

AMENDED EMPLOYMENT AGREEMENT

This Amended Employment Agreement (the "***Agreement***") between Highland Capital Management, L.P., a Delaware limited partnership (the "***Company***"), and Patrick Daugherty (the "***Executive***"), is hereby entered into as of December 31, 2004, and replaces and supercedes all prior employment agreements and modifications.

WHEREAS, the Company and the Executive desire to continue the employment relationship under the following terms.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, terms, covenants and conditions set forth herein and the performance of each, it is hereby agreed as follows:

ARTICLE I

Definitions

1.1. Definitions. In this Agreement, the following terms, unless the context otherwise requires, have the meanings indicated:

"***Affiliate***" means any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question. As used in this definition, the term "***control***" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"***Agreement***" has the meaning set forth in the preamble to this Agreement.

"***Applicable Entities***" means the Company and its Affiliates.

"***Base Salary***" has the meaning set forth in Section 3.1(a).

"***Cause***" means conduct by the Executive amounting to (i) the Executive's conviction or plea of *nolo contendere* for any criminal offense or commission by the Executive of any act that the Company considers damaging to or tending to discredit any of the Applicable Entities; (ii) dishonesty, fraud, misconduct, unlawful discrimination, breach of contract, bad faith or theft on the part of the Executive that is injurious to any of the Applicable Entities; (iii) the Executive's using for his/her own benefit any confidential or proprietary information of any of the Applicable Entities, or willfully or negligently divulging any such information to third parties without the prior written consent of the Company; (iv) a breach or violation of the terms of this Agreement or other agreement to which the Executive and any of the Applicable Entities are party in any manner that adversely affects any of the Applicable Entities; (v) the failure or refusal of the Executive to follow the lawful directives of the Company (unless due to sickness, injury, or disabilities, but excluding self-inflicted injuries, drug usage in violation with Company policy or addiction to alcohol or other substances hazardous to health); (vi) inattention to duty or any other willful, reckless or negligent act (or omission to act) by the Executive, which, in the good faith judgment of the Company, injures any of the Applicable Entities; (vii) a breach of fiduciary duties; (viii) the Executive's commission or participation in any illegal act in the course of his/her employment with the Company, including violation of any statute or regulation; or (ix) the Executive's second commission of an act, of which the Executive is given written notice, that is determined by (A) James D. Dondero, with regard to any event involving James D. Dondero, or (B) both James D. Dondero and Mark K. Okada for an event involving Mark K. Okada or any other employee of an Applicable Entity, to constitute disrespect or unacceptably irreverent or inappropriate behavior to James

Exhibit
H-11
Daugherty 1/29/2026 L.M.

D. Dondero, Mark K. Okada or any other employee of an Applicable Entity. Any determination of whether an Executive should be terminated for Cause pursuant to this Agreement shall be made in the reasonable discretion of the Company, shall be made in good faith and shall be binding upon all parties affected thereby.

"***Company***" has the meaning set forth in the preamble to this Agreement.

"***Competing Business***" means any business conducted by any of the Applicable Entities at the time the Executive's Continuous Status as an Executive ends.

"***Confidential Information***" includes, but is not limited to:

(i) Information concerning customers, clients, marketing, business and operational methods of the Applicable Entities and their customers or clients, contracts, financial or other data, technical data, email and other correspondence or any other confidential or proprietary information possessed, owned or used by the Applicable Entities;

(ii) Business, pricing and management methods and information;

(iii) Finances, strategies, systems, research, plans, reports, recommendations and conclusions;

(iv) Tear sheets, industry comparative analysis and Collateralized Loan Obligation (CLO) and other structured products; and

(v) Names, arrangements with, or other information relating to, any of the Applicable Entities' customers, clients, suppliers, financiers, owners, representatives and other persons who have business relationships with any of the Applicable Entities or who are prospects for business relationships with any of the Applicable Entities;

(vi) Any matter or thing obtained or ascertained by the Executive through the Executive's association with the Applicable Entities the use or disclosure of which might reasonably be construed to be contrary to the best interests of the Applicable Entities.

"***Continuous Status as an Executive***" means that the Executive's employment with the Company is not interrupted or terminated. Continuous Status as an Executive shall not be considered interrupted in the case of (i) any leave of absence approved by the Company; (ii) transfers between locations of the Company or between the Company and any other Applicable Entity or any successor thereto; or (iii) any leave of absence permitted by applicable law. A leave of absence approved by the Company shall include sick leave, military leave, or any other personal leave approved by an authorized representative of the Company.

"***Disability***" means disability as defined by the terms of the Company's long-term disability plan as in effect at the determination of such Disability but will not include disabilities related to fatigue or stress. If, at any time during the term of this Agreement, the Company does not maintain a long-term disability plan, Disability shall mean a physical or mental condition which, in the judgment of the Company, permanently prevents the Executive from performing the essential functions of his/her position with the Company, with or without reasonable accommodation, or such other position or job that the Company makes available to him that is of similar status, similar compensation and similar responsibility and for which the Executive is qualified by reason of his/her education, training and experience. In making its determination, the Company may, but is not required to, rely on advice of a physician competent in the area to which such Disability relates. The Company may make the determination in its sole discretion, and any decision of the Company will be binding on all parties.

"***Executive***" has the meaning set forth in the preamble to this Agreement.

"***Long-term Incentive Plan***" means that certain Second Amended and Restated Long Term Incentive Plan, dated as of December 31, 2004, as such plan may be amended from time to time.

"***Non-Competition Period***" has the meaning set forth in Section 5.3.

"***Person***" means an individual or a corporation, partnership, trust, estate, unincorporated organization, association, or other entity.

"***Release Notice***" has the meaning set forth in Section 5.8.

"***Restricted Securities***" has the meaning set forth in Section 5.8.

"***Specialized Training***" includes, but is not limited to:

(i) Training the Company provides to its employees that is unique to its business and enhances the Executive's ability to perform his/her job duties effectively, including disclosure and access to Confidential Information; and

(ii) Orientation training, sales methods/techniques training, operation methods training, and computer and systems training.

"***Without Cause Severance Pay Period***" means the period of time for which the Executive may be entitled to severance pay upon termination of his/her Continuous Status as an Executive by the Company without Cause, as provided in Section 4.4.

ARTICLE II

Employment and Duties

2.1 Upon the terms and subject to the conditions contained in this Agreement, the Executive agrees to provide full-time services for the Company during the term of this Agreement. The Executive agrees to devote all o his/her time, energy, skill and best efforts to the performance of his/her duties hereunder and to the business of the Company, and shall perform his/her duties in a diligent, trustworthy, and business-like manner, all for the purpose of advancing the business of the Company. The Executive shall not at any time during the term of this Agreement work on any basis (including part-time or as an independent contractor) for a Competing Business and shall not participate in any material way in any other business that is not a Competing Business. Further, any non-material participation in any business that is not a Competing Business shall at all times comply with the written policies of the Company.

2.2 The Executive shall serve the Company as and shall have the title of Senior Portfolio Manager. The duties of the Executive shall be those duties that can reasonably be expected to be performed by a person with such title. The Executive shall report directly and regularly to the President of the Company. The Executive agrees to serve, without additional compensation, in a similar executive capacity with any Applicable Entity.

ARTICLE III

Compensation and Other Benefits

3.1 For all services rendered by the Executive to the Company, the Company shall compensate, or shall cause any Applicable Entity to compensate, the Executive as follows:

(a) Salary and Bonus. The annual salary (the "***Base Salary***") payable to the Executive during the term of this Agreement shall be an amount determined by the Company (in its sole discretion) and communicated in writing to the Executive, and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon the Executive's performance and shall be determined by the Company in its sole discretion. In addition, the Company may from time to time award bonuses to the Executive based on such criteria as the Company may establish in its discretion. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. The Executive must be employed on the payment date(s) in order to be eligible for the bonus. The payment of salary and bonuses shall be subject to all federal, state and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of the Executive's compensation does not constitute a guarantee of employment for any specific period of time.

Notwithstanding the preceding, in the event that the Executive commits an act that is determined in good faith by (i) James D. Dondero, with regard to any event involving James D. Dondero, or (ii) both James D. Dondero and Mark K. Okada for an event involving Mark K. Okada or another member of senior management of an Applicable Entity, to constitute disrespect or unacceptably irreverent or inappropriate behavior to James D. Dondero, Mark K. Okada or another member of senior management of an Applicable Entity, the Company may, effective with the next pay period following its delivery of a written notice to the Executive, reduce the Executive's then applicable Base Salary by fifty percent (50%) for a period not to exceed one calendar year.

(b) Vacation. The Executive shall be entitled to vacations consistent with the written vacation policy of the Company, provided that service for all Applicable Entities shall be recognized in implementing such policy. Unless specifically stated to the contrary in writing by the Company, unused vacations in any year shall lapse and may not be carried forward.

(c) Other Compensation and Benefits. The Executive is entitled to participate during the term of this Agreement in any group health insurance plan, bonus, option or similar incentive compensation plan, including the Long-term Incentive Plan, 401(k) plan, group life plan and automobile allowance program that is made available, from time to time, to other executives of the Company, on a basis consistent with such participation and subject to the terms of the plan documents. Service for all Applicable Entities shall be recognized in implementing the policy of the relevant Applicable Entity in respect of any of the foregoing.

(d) Reimbursement. The Company shall reimburse, or shall cause any Applicable Entity to reimburse, the Executive for properly documented expenses that are incurred by the Executive on behalf of the Company or Applicable Entity in the performance of his/her duties hereunder in accordance with such Applicable Entity's policies in effect from time to time.

3.2 The Executive has previously been granted Long-term Incentive Units under the Long-term Incentive Plan. Such Long-term Incentive Units are subject to the terms and conditions detailed in any Award Agreement(s) between the Executive and the Company, and the Long-term Incentive Plan.

ARTICLE IV

Term At Will; Termination

4.1 At Will Employment. The term of the Continuous Status as an Executive under this Agreement shall continue until terminated by the Company or the Executive at will, with or without Cause.

4.2 Termination for Cause. The Company may terminate the Continuous Status as an Executive at any time for Cause. Upon termination for Cause, the Company shall have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any accrued but unused vacation time, (iii) any unreimbursed expenses properly incurred prior to the date of termination, and (iv) any amounts or rights to which the Executive is entitled under any other written agreements with the Company.

4.3 Termination upon Death or Disability. The Executive's Continuous Status as an Executive may be terminated upon the death or Disability of the Executive. Upon termination of the Executive upon death or Disability, the Company shall have no further liability or obligation to the Executive (or, in the case of death, his/her estate) under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any unpaid bonuses detailed through the date of termination, (iii) any accrued but unused vacation time, (iv) any unreimbursed expenses properly incurred prior to the date of termination, and (v) any amounts or rights to which the Executive is entitled under any other written agreements with the Company.

4.4 Termination Without Cause. The Company may terminate the Continuous Status as an Executive at any time without Cause for any reason whatsoever. Upon termination without Cause (except in the case of termination upon death or Disability, which shall be subject to Section 4.3), the Company shall have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any earned but unused vacation time, (iii) any unreimbursed expenses properly incurred prior to the date of termination, (iv) any amounts or rights to which the Executive is entitled under any other written agreements with the Company, and (v) severance pay equal to the product of (a) three (3) weeks' Base Salary (at the rate then in effect at the time of such termination), multiplied by (b) the number of fully completed years of the Executive's Continuous Status as an Executive. The Executive acknowledges that the Company's obligation to pay severance, if any, will arise only after the Executive's employment has terminated and, only if the Executive signs and returns a duly executed separation agreement and release substantially in the form attached hereto as Exhibit A. The Executive further acknowledges and agrees that severance pay, if any, constitutes consideration for the Executive's release of claims at the time of termination. In the event the Executive declines to sign the separation agreement and release, he/she shall not be entitled to any severance, and the Company will have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment or termination.

4.5 Voluntary Termination – Non-Competing Business. In the event that the Executive terminates his/her Continuous Status as an Executive hereunder and within one (1) year thereafter the Executive is not employed by a Competing Business, the Company shall have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any accrued but unused vacation time, (iii) any amounts or rights to which the Executive is entitled under any other written agreements with the Company, (iv) any unreimbursed expenses properly incurred prior to the date of termination, and (v) severance pay equal to the product of (a) two (2) weeks Base Salary (at the rate then in effect at the time of such termination), multiplied by (b) the number of fully completed years of the Executive's Continuous Status as an Executive; *provided, however*, the total amount of such severance pay shall not exceed an amount equal to six (6) weeks' Base Salary (at the rate then in effect at the time of such termination). The Executive acknowledges that the Company's obligation to pay severance, if any, will arise only after the Executive's employment has terminated and, only if the Executive signs and returns a duly executed separation agreement and release substantially in the form attached hereto as Exhibit A. The Executive further acknowledges and agrees that severance pay, if any, constitutes consideration for the Executive's release of claims at the time of termination. In the event the Executive declines to sign the separation agreement and release, he/she shall not be entitled to any severance, and the Company will have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment or termination.

4.6 Voluntary Termination – Competing Business. In the event that the Executive terminates his/her Continuous Status as an Executive hereunder and within one (1) year thereafter the Executive is employed by a Competing Business, the Company shall have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any accrued but unused vacation time, (iii) any amounts or rights to which the Executive is entitled under any other written agreements with the Company, (iv) any unreimbursed expenses properly incurred prior to the date of termination, and (v) severance pay equal to two (2) weeks' Base Salary (at the rate then in effect at the time of such termination). The Executive acknowledges that the Company's obligation to pay severance, if any, will arise only after the Executive's employment has terminated and, only if the Executive signs and returns a duly executed separation agreement and release substantially in the form attached hereto as Exhibit A. The Executive further acknowledges and agrees that severance pay, if any, constitutes consideration for the Executive's release of claims at the time of termination. In the event the Executive declines to sign the separation agreement and release, he/she shall not be entitled to any severance, and the Company will have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment or termination.

4.7 Board Seat. Upon the termination of the Continuous Status as an Executive for any reason, with or without Cause, if the Executive is on the board of directors or holds a position as an officer or committee member of any of the Applicable Entities or any other firm-related entities at the time of such termination, the Executive shall promptly resign from all of such positions by delivery of written notice to such effect.

ARTICLE V

Confidentiality, Non-Competition, Non-Solicitation, and Non-Recruitment

5.1 The Company's Promise to Provide Confidential Information and Specialized Training. At the inception of this Agreement, and continuing on an ongoing basis during the Executive's employment with the Company, the Company agrees to provide the Executive with new Confidential Information and Specialized Training to which the Executive has not previously had access.

5.2 The Executive's Promise not to Use or Disclose the Confidential Information. In exchange for the Company's promise to provide the Executive with Confidential Information and Specialized Training, the Executive shall not, during his/her employment with the Company under this Agreement or at any time thereafter, disclose to anyone, including, without limitation, any Person, or publish, or use for any purpose, any Confidential Information, except as: (i) required in the ordinary course of the Company's business or the Executive's work for the Company; (ii) required by law; or (iii) directed and authorized in writing by the Company. At the conclusion of the Executive's Continuous Status as an Executive, for any reason, the Executive shall immediately return and deliver to the Company any and all computers, hard-drives, papers, books, records, documents, memoranda, manuals, e-mail, electronic or magnetic recordings or data, including all copies thereof, belonging to the Company or any of the Applicable Entities, containing Confidential Information, or relating to the Company's or any of the Applicable Entities' business, which are in the Executive's possession, whether prepared by the Executive or others. If at any time after termination of the Executive's participation in the Company, for any reason, the Executive determines that the Executive has any Confidential Information in the Executive's possession or control, the Executive shall immediately return to the Company all such Confidential Information in the Executive's possession or control, including all copies and portions thereof.

5.3 The Restrictive Covenants. Each Executive recognizes and agrees that: (i) the Company has devoted a considerable amount of time, effort, and expense to develop its Confidential Information and business goodwill; (ii) the Confidential Information and the Company's business goodwill are valuable assets to the Company; and (iii) any unauthorized use or disclosure of the Company's or any of the Applicable Entities' Confidential Information would cause irreparable harm to the Company for which there is no adequate remedy at law, including damage to the Company's business goodwill. Accordingly, each Executive agrees that to protect the Company's Confidential Information and business goodwill, it is necessary to enter into the following restrictive covenants, which are ancillary to the enforceable promises between the Executive and the Company in this Article V. The Executive, either individually or as a principal, partner, stockholder, manager, agent, consultant, contractor, employee, lender, investor, or as a director or officer of any corporation or association, or in any other manner or capacity whatsoever, agrees that during the period of the Executive's Continuous Status as an Executive, and for a period of one (1) year following the date on which the Executive's Continuous Status as an Executive ceases (for whatever reason) (the "***Non-Competition Period***"), the Executive shall not, whether directly or indirectly, without the express prior written consent of the Company (excluding the activities of the Executive's spouse or other immediate family members independently engaged in such activities):

(a) Non-Solicitation. Solicit business, attempt to solicit business, or accept business in products or services competitive with products or services sold by any of the Applicable Entities, from any of the Applicable Entities' clients, customers, prospective or potential clients or customers, or those individuals or entities that any of the Applicable Entities did business with during the Executive's employment with the Company, with whom the Executive solicited or dealt with, in any capacity, while employed with the Company during the twenty-four (24) months immediately preceding the Non-Competition Period.

(b) Non-Recruitment. Hire, solicit for employment, induce or encourage to leave the employment of the Company or otherwise cease their employment with any of the Applicable Entities, any employee or any former employee of any Applicable Entities whose employment with any of the Applicable Entities ceased than less than six (6) months earlier.

(c) Non-Competition. Within any market in which any of the Applicable Entities provided services or sold products during the twenty-four (24) months immediately preceding the Non-Competition Period, become employed, advise, perform services or otherwise serve in any capacity with a Competing Business in which the Executive would (a) perform similar duties to those performed while at the Company, (b) engage in or provide services to any client, customer, or prospective or potential clients or customers of any of the Applicable Entities, or competitor of any of the Applicable Entities, or (c) provide

services that are competitive with a product, service, process or development on which the Executive worked at the Company, or with which the Executive had access to Confidential Information while employed with the Company. However, the Executive may own, directly or indirectly, solely as an investment, securities of any business traded on any national securities exchange or NASDAQ, provided that the Executive is not a controlling person of, or member of a group that controls such business, and provided further that the Executive does not, directly or indirectly, own three percent (3%) or more of any class of securities of such business. If the Company notifies the Executive in writing that he/she is being terminated as the result of a downsizing or reduction in force by the Company, then this Section 5.3(c) shall not apply to the Executive after termination of his/her Continuous Status as an Employee.

5.4 Remedies. The Executive acknowledges that the restrictions contained in this Article V, in view of the nature of the Company's business, are reasonable and necessary to protect the Company's legitimate business interests and business goodwill and that any violation of this Agreement would result in irreparable injury to the Company. In the event of a breach by the Executive of any provision of this Article V, the Company shall, assuming the remedy provisions of Section 15(e)(i) of the Amended and Restated Buy-Sell and Redemption Agreement, dated December 31, 2004, as may be amended from time to time, and Section 8.9(c) of the Long-Term Incentive Plan are applied and upheld, only be entitled to take the following actions as its sole remedy against the Executive for such breach:

(a) In the event of a breach by the Executive of any provision of Articles V (other than Section 5.3(c)), the Company shall be entitled to a temporary restraining order and injunctive relief restraining the Executive from the commission of any breach, and to recover the Company's attorneys' fees, costs and expenses related to the breach.

(b) In the event of a breach by the Executive of Section 5.3(c), the Company shall be entitled to a payment from the Executive equal to the sum of (i) the sum of (A) the amount the Executive received pursuant to Section 4.5 and (B) the amount the Executive would have been entitled to receive under Section 4.6 at the time his/her/her Continuous Status as an Executive ended, plus (ii) the sum of the Company's attorneys' fees, costs and expenses related to the breach.

The existence of any claim or cause of action by the Executive against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of the restrictive covenants contained in this Article V.

5.5 Reformation. The Executive and the Company agree that all of the covenants contained in this Article V shall survive the termination or expiration of this Agreement, and agree further that in the event any of the covenants contained in this Article V shall be held by any court to be effective in any particular area or jurisdiction only if said covenant is modified to limit its duration or scope, then the court shall have such authority to so reform the covenant and the parties hereto shall consider such covenant(s) and/or other provisions of this Article V to be amended and modified with respect to that particular area or jurisdiction so as to comply with the order of any such court and, as to all other jurisdictions, the covenants contained herein shall remain in full force and effect as originally written. Should any court hold that these covenants are void or otherwise unenforceable in any particular area or jurisdiction, then the Company may consider such covenant(s) and/or provisions of this Article V to be amended and modified so as to eliminate therefrom the particular area or jurisdiction as to which such covenants are so held void or otherwise unenforceable and, as to all other areas and jurisdictions covered hereunder, the covenants contained herein shall remain in full force and effect as originally written.

5.6 Tolling. If the Executive violates any of the restrictions contained in this Article V, the restrictive period will be suspended and will not run in favor of the Executive until such time that the Executive cures the violation to the satisfaction of the Company, or for a period of three (3) years after the Executive's employment with the Company ended, whichever period is shorter.

5.7 Notice. If a Executive, in the future, seeks or is offered employment, or any other position or capacity with another company or entity, the Executive agrees to inform each new employer or entity, before accepting employment, of the existence of the restrictions in this Article V. Further, before taking any employment position with any Person during the Non-Competition Period, the Executive agrees to give prior written notice to the Company of the name of such Person. The Company shall be entitled to advise such Person of the provisions of Article V and to otherwise deal with such Person to ensure that the provisions of Article V are enforced and duly discharged.

5.8 Restricted Securities. The Executive agrees that, during the Non-Competition Period, he/she will not directly or indirectly, invest in or otherwise participate in any investment decision, including the preparation of or contribution to any research relating to Restricted Securities (as defined below) that are designated by the Company as set forth herein for his/her own account or for the account of others without the prior written consent of the Company.

For purposes of this Agreement, "***Restricted Securities***" shall include any debt or equity related security, including common stock. The Company agrees to provide such list of Restricted Securities to the Executive within five (5) days following the termination of the Continuous Status as an Executive, which list shall set forth the Restricted Securities and shall be the list maintained by the Company and/or the Applicable Entities in the ordinary course of business for purposes of compliance with applicable securities law restrictions. The Executive agrees that for the Non-Competition Period, the Executive will not directly or indirectly participate in any investment decision regarding the Restricted Securities on the list provided to the Executive. The Executive may, by written notice to the Company, request that the Restricted Security designation be removed from a specific security or securities. Upon receipt of such notice from the Executive, the Company may, in its sole discretion, determine that the Restricted Security designation be removed from any or all of the securities included in the notice. If the Company so determines, the Company shall send written notice (the "***Release Notice***") to the Executive that the securities specified in such Release Notice are no longer designated as Restricted Securities for purposes of the Agreement. Any security designated as a Restricted Security will become unrestricted upon the earliest to occur of (i) the termination of the Non-Competition Period, (ii) the delivery of a Release Notice by the Company to the Executive covering such security, and (iii) the termination of the Without Cause Severance Pay Period, if applicable. The Company agrees from time to time to maintain a list of Restricted Securities to be used in conjunction with the foregoing and not to vary more than twenty-five percent (25%) in any month the number of Restricted Securities designated thereon.

ARTICLE VI

Return of Company Property

All lists, records, designs, patents, plans, manuals, memoranda and other property delivered to the Executive by or on behalf of any of the Applicable Entities or by any of their clients or customers (including, but not limited to, clients or customers obtained for the Applicable Entities by the Executive), and all records compiled by the Executive that pertain to the business of the Applicable Entities (whether or not confidential) shall be and remain the property of the Company and be subject at all times to its discretion and control. Likewise, all correspondence with clients, customers or representatives, reports, research, records, charts, advertising materials, and any data collected by the Executive, or by or on behalf of the Applicable Entities or its representatives (whether or not confidential) shall be delivered promptly to the Company without request by it upon termination of the Continuous Status as an Executive.

ARTICLE VII

Miscellaneous

7.1 Complete Agreement. There are no oral representations, understandings or agreements with the Company or any of its officers, directors or representatives covering the same subject matter as this Agreement. This written Agreement is the final, complete and exclusive statement and expression of the agreement between the Company and the Executive and of all the terms of this Agreement, it cancels and replaces and supersedes all prior agreements or modifications with respect to the subject matter hereof, and it cannot be varied, contradicted or supplemented by evidence of any prior or contemporaneous oral or written agreements. This written Agreement may not be later modified except by a further writing signed by the Company and the Executive, and no term of this Agreement may be waived except by a writing signed by the party waiving the benefit of such terms.

7.2 No Waiver. No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

7.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns. The Company may assign this Agreement to a Person who or which directly or indirectly succeeds to all or any substantial part of the Company's assets or business. This Agreement is personal to the Executive and may not be assigned or delegated by him and any such purported assignment or delegation shall be null and void.

7.4 Severability; Headings. If any portion of this Agreement is held invalid or inoperative, the other portions of this agreement shall be deemed valid and operative, and so far as it is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The paragraph headings herein are for reference purposes only and are not intended in any way to describe, interpret, define or limit the extent or intent of this Agreement or any part hereof.

7.5 Interpretation. As used in this Agreement, (i) the term "***includes***" and the word "***including***" and words of similar import shall be deemed to be followed by the words "***without limitation***"; (ii) definitions contained in this Agreement apply to singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms; (iii) words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other gender as the context requires; (iv) the terms "***hereof***," "***herein***," and "***herewith***" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement, and Article, Section, subsection, paragraph references are to the Articles, Sections, subsections and paragraphs of this Agreement unless otherwise specified; (v) the word "***or***" shall not be exclusive; and (vi) provisions shall apply, when appropriate, to successive events and transactions.

7.6 Governing Law; Resolution of Disputes; Service of Process. This Agreement shall, at the choice of the Company, be construed according to the laws of the State of Texas or the applicable law of the state in which the Executive worked for Company. All disputes relating to the interpretation and enforcement of the provisions of this Agreement shall, at the choice of the Company, be resolved and determined exclusively by the federal or state courts in Dallas County, Texas, or in the federal or state courts in the state where the Executive worked for the Company. Service of process shall be effective when given in the manner provided for notices hereunder.

Remainder Of Page Intentionally Left Blank.
Signature Page(s) to Follows.

IN WITNESS WHEREOF the parties have signed and delivered this Agreement as of the date first set forth above.

HIGHLAND CAPITAL MANAGEMENT SERVICES, INC.

By: _____
James D. Dondero,
President

EXECUTIVE

_____
Name: Patrick Daugherty

EXHIBIT A

FORM OF SEPARATION AGREEMENT AND RELEASE

This Separation Agreement and Release ("***Agreement***") is between Highland Capital Management Services, Inc. ("***Employer***") and **[*Executive*]** ("***Employee***").

WHEREAS, Employee has been employed by Employer; and

WHEREAS, Employee's employment with Employer is terminated, effective **[*DATE*]**.

WHEREAS, Employee and Employer wish to resolve amicably all outstanding issues between them.

THEREFORE, in consideration of the promises set forth below, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The unnumbered preceding paragraphs are incorporated herein by reference.

2. Employee's employment with Employer is terminated, effective **[*DATE*]**.

   Employer shall pay employee for salary through the date of termination, accrued but unused vacation pay due, and any outstanding reimbursable expenses incurred through the date of termination.

3. **SEVERANCE.** Employer shall pay Employee [*$_____*] as severance pay (the "***Severance Payments***") in accordance with the following payment schedule: **[*RESERVED*]**. This amount will be paid net of withholding taxes and any amount owed to the Employer for vacation taken over the accrued amount.

   A. Employee acknowledges that he/she is not entitled to the Severance Payments but for his/her execution of this Agreement and Sections 4 through 6 in particular. Employee acknowledges that he/she is not entitled to any further compensation, except as otherwise set forth on Schedule 1, from Employer pursuant to this Agreement or his/her employment.

   B. If Employee breaches this Agreement prior to full payment of the Severance Payments, then, in addition to any other remedy at law or in equity which Employer may have, Employer shall not be obligated to pay an unpaid part of the Severance Payment.

4. **RELEASE.** Employee on behalf of Employee, his/her heirs, executors, successors and assigns, hereby releases, remises and discharges Employer and each and every one of its former or current directors, officers, employees, members, agents, successors, predecessors, subsidiaries, assigns and attorneys of and from all actions, causes of action, claims or complaints (collectively, "***Claims***") in law or equity which Employee or his/her heirs, executors, administrators, assigns, agents, representatives, attorneys, officers or employees ever had or now has by reason of any matter, cause or thing whatsoever at any time up to and including the date of execution of this Agreement, including but not limited to any Claim of discrimination, harassment, retaliation, breach of contract, wrongful termination, interference with contractual relations, intentional infliction of emotional distress, any alleged violation of any federal, state or local statutes, regulations or ordinances, including but not limited to the federal and state laws known as the Civil Rights Acts of 1964 and 1991, the Age

Discrimination in Employment Act, the Americans With Disabilities Act, the Employee Retirement Income Security Act (other than any accrued benefit(s) to which Employee has a non-forfeitable right under any ERISA pension benefit plan), the retaliation provisions of the Fair Labor Standards Act, the Family and Medical Leave Act, the Worker Adjustment and Retraining Notification Act, and any amendments to any of the foregoing, or any other Claims of any kind. Such release includes, but is not limited to, any claim Employee or his/her counsel may have, or had, for payment of attorney's fees, commissions or reimbursement of expenses. Furthermore, except as provided herein, Employee shall not pursue any such Claim in any court, agency, board, committee or forum whatsoever, and shall reimburse Employer for all fees and expenses associated with Employer's defense should Employee pursue such a Claim, unless that claim challenges the knowing and voluntary nature or the validity of this Separation Agreement and Release under the Older Worker Benefit Protection Act [***this only needs to be included if the employee is 40 years old or older***]. However, this does not preclude Employee from exercising his/her right, if any, to apply for unemployment benefits.

5. The content of this Agreement, the fact of the execution of this Agreement and the circumstances leading to the execution of the Agreement, are confidential and are not to be disclosed by any party except as necessary to a party's respective accountants, attorneys, income tax preparers or similar professionals, each of whom shall be bound by this confidentiality requirement. All documents, records, techniques, business secrets and other information which have come into Employee's possession from time to time during Employee's affiliation with the Employer and/or any of its subsidiaries or affiliates shall be deemed to be confidential and proprietary to the Employer and/or any of its subsidiaries or affiliates and shall be their sole and exclusive property. Employee agrees that Employee will keep confidential and not divulge to any other party any of the Employer's or its subsidiaries' or affiliates' confidential information and business secrets, including, but not limited to, such matters as investor information, proprietary investment strategies, portfolio information, key personnel, operational methods, plans for future developments, and other business affairs and methods and other information not readily available to the public, except as required by law. Additionally, Employee agrees that he/she shall promptly return to the Company any and all confidential and proprietary information that is currently in Employee's possession.

6. **NONDISPARAGEMENT/NONDISRUPTION.**

A. Employee and Employer shall reasonably cooperate with one another to effect a smooth transition of Employee's workload.

B. Employee shall not disparage Employer any partner or employee of Employer nor will Employer's officers and directors disparage Employee in any communication with any third party. Employer and Employee agree that this is a material term of this Agreement. This Section 6.B. does not restrict either party from responding fully and truthfully in the context of a legal or other government proceeding in which either is under oath or responding to subpoena or otherwise required by law to cooperate with a government entity.

C. Neither Employee nor Employer shall not take any action to disrupt the business operations of the other.

7. Employee understands and agrees that this Release Agreement shall not in any way be construed as an admission by Employer of any unlawful or wrongful acts whatsoever against employee or any other employee, and Employer specifically disclaims any liability to or wrongful acts against Employee or any other person.

8. **Please Note—For the Agreement to validly release claims under the Age Discrimination and Employment Act for employees who are 40 years old or older, the Agreement must contain certain language.**

(a) **Please note—Language if employee is under 40 years old.** The parties acknowledge that each has read carefully this entire Agreement, including but not limited to the release provision of Section 4. By executing this Agreement, Employee acknowledges that (a) Employee has been advised to consult with an attorney of his/her own choosing regarding the terms of this Agreement, (b) any and all questions regarding the terms of this Agreement have been asked and answered to his/her complete satisfaction, (c) Employee has read this Agreement and fully understands its terms and their importance, (d) except as provided in this Agreement, Employee has no other right or claim to any other payments or benefits, and that the consideration provided for herein is good and valuable and of a kind to which Employee was not otherwise entitled, and (e) Employee is entering into this Agreement voluntarily, of his/her own free will, and without any coercion, undue influence, threat or intimidation of any kind or type whatsoever.

(b) **Please note—Language for a single termination if employee is 40 years old or older.** Employee represents and agrees that he/she has had a reasonable time to review the Agreement and is voluntarily entering into this Agreement. Employee understands that he/she may revoke this Agreement within seven (7) days after execution. Employee's notice of revocation must be in writing and addressed and delivered to the attention of (insert name and address), on or before the end of the seven (7)-day period. This Agreement will not be effective or enforceable against the Employer until eight (8) days after the Employer has received employee's signed copy of this Agreement. That will be the "effective date" of this Agreement. If the Employee revokes this Agreement as described herein, the Agreement will not become effective, and Employee will not receive the payments set forth in this Agreement. By signing below, Employee further confirms that he: (a) has read this Agreement carefully and completely; (b) has been given a period of at least twenty-one (21) days to consider and review this Agreement; (c) has been advised to consult with legal counsel; and (d) understands all the provisions in this Agreement.

Employee understands that it is his/her choice whether or not to enter into this Separation Agreement and Release and that his/her decision to do so is voluntary and made knowingly in the absence of fraud, duress, or coercion.

(c) **Please note—Language for multiple terminations if employees are 40 years old or older.** Employee acknowledge that he/she has been advised in writing by Employer that he/she should consult with an attorney prior to executing this Agreement, and Employee further acknowledges that he/she has been given a period of forty-five (45) calendar days after his/her termination by Employer within which to review and consider the provisions of this Separation Agreement and Release.

Employee acknowledges that he/she has been given information regarding the ages and job titles of persons terminated and eligible for severance as a result of Employer's terminations, and of those persons who are not eligible.

Employee understands and acknowledges that he/she has seven (7) calendar days following the execution of the Separation Agreement and Release to revoke his/her acceptance of this Separation Agreement and Release and that this Agreement shall not become effective and the severance shall not become payable until this revocation period has expired. In order to revoke this Separation Agreement and Release, Employee acknowledges that he/she is required to deliver written notice clearly stating his/her intent to revoke this Separation Agreement and Release to (insert name and address). Employee agrees that his/her notice will not be considered effective unless (insert name), or a representative designated by employer receives it within seven (7) calendar days following Employee's execution of this Separation Agreement and Release.

Employee understands and acknowledges that it is his/her choice whether or not to enter into this Separation Agreement and Release that his/her decision to do so is voluntary and made knowingly in the absence of fraud, duress, or coercion.

9. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

10. If any portion of this Agreement is void or deemed unenforceable for any reason, the unenforceable portion shall be deemed severed from the remaining portions of this Agreement that shall otherwise remain in full force and effect.

11. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements or understandings relating thereto. This Agreement may be modified only in writing and signed by both parties.

Please read carefully as this document includes a release of claims.

As evidenced by my signature below, I hereby certify that I have read the above Separation Agreement and Release and agree to its terms.

_____

Name:_____

Date:_____

Highland Capital Management Services, Inc.

By: _____

Name:_____

Title:_____

Date:_____

EXHIBIT 12

PDADV_000019-PDADV_000019

Exhibit
H-12
Daughety 1/29/2026 L.M.

Date: 9/28/11
To: Jim Dondero

I very much appreciate the opportunity to have worked with you and at Highland for the last 13 ½ years. After careful and deliberate consideration, I have decided to move on to the next chapter in my life and am giving my 30 notice of resignation effective today. I wish you and the firm all the best and am available to assist in an appropriate transition.

Sincerely,

Patrick H. Daugherty

cc Patrick Boyce

Dondero
EXHIBIT NO. 170
M. FOLKS

Cause No DC-12-04005
Highland Parties'
Trial Exhibit
85

DAUGHERTY 001043

EXHIBIT 13

PDADV_010520-PDADV_010520

Exhibit
H-13
Daughtrey 3/29/2026 L.M.

PAT DAUGHERTY
Date of Hire: 4/3/1998
Comprehensive Compensation and Benefits Statement
February 27, 2009

EARNINGS AND AWARDS

2008 Base Salary, as of 12/31/08	$ 250,000
2009 Base Salary, effective March 1, 2009 : $ 250,000	
2008 Tax Refund	$ 1,475,816

Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

Loan Forgiven in 2009 as part of bonus:	$ 500,000
2008 Other Awards	
• 401K Match	$ 4,000
• Defined Benefit	$ 64,320
2008 Deferred Compensation	
• Retention Award	$ 1,300,000

Highland's Hedge Funds and Private Equity funds, for a variety of reasons, largely preclude redemptions and Highland Capital Management, L.P. may or may not be in a position to provide a cash equivalent upon triggering of any employee specific monetization. Therefore for this deferred compensation award and any previous awards of Option IT and STIP, Employee agrees to accept payment in kind settlement of any monetization if necessary. _____ (*Please Initial*)

2008 Total Earnings and Awards	**$ 3,594,136**

HIGHLAND PAID BENEFITS

Medical	$ 16,141
Dental	$ 1,230
Basic and Dependent Life Insurance/AD&D	$ 598
Short Term Disability and Long Term Disability	$ 435
Executive LTD	$ 956
Daily Catered Lunches	$ 3,240
Blackberry	$ 1,440
Parking	$ 1,200
2008 Estimated Total Value of Highland Paid Benefits	**$ 25,240**

TOTAL COMPENSATION PACKAGE $ 3,619,376

Waiver and Release Payments in 2008	$ 75,000

ACCEPTED AND AGREED:

Cause No DC-12-04005
Highland Parties' Trial Exhibit
32

_____ _____
Patrick Daugherty **Date**

DAUGHERTY 001363

Exhibit 14 Slipsheet

(Subject to Motion to Seal and Protective Order)

EXHIBIT 15

Form **4605-A**

Department of the Treasury — Internal Revenue Service

Examination Changes - Partnerships, Fiduciaries, S Corporations, and Interest Charge Domestic International Sales Corporations (Unagreed and Excepted Agreed)

Name and address	Employer Identification Number	Form Number
Highland Capital Management 300 Crescent Court, Suite 700 (Prev. Two Galleria Tower 13455 Noc Dallas,, Texas 75201	75-2716725	1065

Person Examination Changes Were Discussed With	Name Highland Capital Management
	Title Taxpayer

1. Adjustments to ordinary, distributable net, or taxable income.	Period End: 12/31/2008	Period End:	Period End:
a.			
b.			
c.			
d.			
e.			
f.			
g.			
2. Total adjustments to ordinary, distributable net, or taxable income.			
3. Ordinary, distributable net, or taxable income as reported.	(546,177,906.00)		
4. Corrected ordinary, distributable net, or taxable income.	(546,177,906.00)		
5. Other adjustments			
a. Portfolio income (loss) net short-term gain (loss)			
(1) Adjustment	166,332,713.00		
(2) As Reported	3,570,236.00		
(3) Corrected	169,902,949.00		
b.			
(1) Adjustment			
(2) As Reported			
(3) Corrected			

Remarks
This form only reflects Schedule K items adjusted by this report.

Examiner's Signature:	Employee ID:	Area Office:	Date:
Name Linda Yao	1001554452	Farmers Branch, TX	12/8/2017

Exhibit
H-15
Daugherty 1/29/2026 L.M.

001730

EXHIBIT 16

HIGHLAND CAPITAL MANAGEMENT

February 3, 2018

By Mail and Electronic Mail

Patrick Daugherty
3621 Cornell Ave
Dallas, TX 75205
phdaugherty@gmail.com

Re: Field Examiners' Proposed Tax Adjustments – 2008 Tax Year
Highland Capital Management, L.P.

Dear Patrick,

As previously advised, a team of IRS field examiners ("Exam") conducted an audit of the 2008 partnership tax return filed on behalf of Highland Capital Management, L.P. ("Highland"). Exam concluded their audit and have proposed an adjustment to the 2008 return.

We have enclosed with this letter the following items: (a) IRS Form 886-Z except -A, and (b) IRS Form 870-PT. *At this time, no action on your part is required with respect to these documents unless you wish to agree to Exam's proposed adjustments – which we do not recommend.*

Exam has scheduled a closing conference on March 2, 2018. You do not need to attend the closing conference. Please let us know by the close of business on February 15, 2018 if you wish to attend. Highland will handle the closing conference (unless waived) and appeal the proposed adjustment to the IRS Appeals Office after the conference.

Please contact me at 972-419-4438 if you have any questions.

Regards,

Brian Collins
Director of Human Resources
Highland Capital Management, L.P.

Enclosures

Exhibit
H-16
Daugherty 1/29/2026 L.M.

EXHIBIT 17

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065
Name of Partnership Highland Capital Management	TIN of Partnership 75-2716725	Taxable Year Ended 12/31/2008

Name and Address of Each Partner	TIN of Partner	Percentage of Profit	Portfolio income (loss) net short-term gain (loss)	
(1)	(2)	(3)	(4)	(5)
[redacted]				

Continuation

TIN of Partner					
(6)	(7)	(8)	(9)	(10)	(11)
[redacted]					
Totals					

This form only reflects Schedule K-1 items adjusted by the report dated: _____

Exhibit
H-17
Daugherty 1/29/2026 L.M.

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner	TIN of Partner	Percentage of Profit	Portfolio income (loss) net short-term gain (loss)	
(1)	(2)	(3)	(4)	(5)
[redacted]				
Daugherty, Patrick [redacted]	[redacted]	0.74030000%	1,257,792.00	
[redacted]				
Continuation				
[redacted]				
Totals				

This form only reflects Schedule K-1 items adjusted by the report dated: _____

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio income (loss) net short-term gain (loss) (4)	(5)
[redacted]				

Continuation

[redacted]					
Totals					

This form only reflects Schedule K-1 items adjusted by the report dated: _____

Form 886-Z (June 2016)	Department of the Treasury - Internal Revenue Service **TEFRA Partners' Shares of Income**	Schedule Number 1065

Name of Partnership	TIN of Partnership	Taxable Year Ended
Highland Capital Management	75-2716725	12/31/2008

Name and Address of Each Partner (1)	TIN of Partner (2)	Percentage of Profit (3)	Portfolio Income (loss) net short-term gain (loss) (4)	 (5)
[redacted]				
Totals		100.00000000%	169,902,949.00	

Continuation

[redacted]

This form only reflects Schedule K-1 items adjusted by the report dated: _____

EXHIBIT 18

Form **870-PT** (Rev. 4-2012) For partnership taxable years ending after August 5, 1997	Department of the Treasury — Internal Revenue Service **Agreement for Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts**	IN REPLY REFER TO:

Taxpayer(s) name(s), address and zip code:	Name of Partnership:	Tax Year(s) Ended:
Daugherty, Patrick 3621 Cornell Ave. Dallas, TX 75205	Highland Capital Management EIN: 75-2716725	12/31/2008
TIN: 452-94-7373	Name of Tax Matters Partner: Strand Advisors, Inc.	

Offer of Agreement to Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts & Waiver of Restrictions on Assessment for Partnership Items, Penalties, Additions to Tax, and Additional Amounts

Under the provisions of sections 6224(c) and 7121 of the Internal Revenue Code (IRC), the Commissioner of the Internal Revenue Service and the undersigned taxpayer(s) agree to the determination of partnership items and partnership level determinations as to penalties, additions to tax, and additional amounts that relate to adjustments to partnership items as shown on the attached Schedule of Adjustments.

The undersigned taxpayer(s), in accordance with IRC sections 6224(b) and 6213(d), also waive(s) the restrictions provided by IRC sections 6225(a) and 6213(a) and consent(s) to the assessment and collection of any deficiency attributable to partnership items, penalties, additions to tax, and additional amounts that relate to partnership items, as set forth in the attached Schedule of Adjustments (plus any interest provided by law). IRC Section 6651 late filing penalty applies to any late filed (or non-filed) returns that are required to report the partnership item adjustments.

This agreement is conditional and will not become effective or final until this agreement form is returned to the Commissioner and is signed on his or her behalf. The one-year extension of the period of limitations on assessments under IRC section 6229(f) will not begin to run until the date the Commissioner's representative signs this form on the Commissioner's behalf. If this is a partial agreement, the period of limitations for assessing any tax attributable to the settled items shall be determined as if this agreement had not been entered into.

If this part of this agreement form is signed for the Commissioner, the treatment of partnership items and partnership level determinations as to penalties, additions to tax and additional amounts that relate to adjustments to partnership items under this agreement will not be reopened in the absence of fraud, malfeasance, or misrepresentation of fact. In addition, no claim for an adjustment of partnership items, refund or credit based on any change in the treatment of partnership items or partnership level determinations as to penalties, additions to tax, and additional amounts may be filed or prosecuted.

Once the taxpayer signs such a waiver and it is countersigned by the Commissioner, the taxpayer cannot file an Administrative Adjustment Request (AAR) on any partnership items for the related TEFRA entity. This includes partnership items not specifically addressed on the attached Schedule of Adjustments.

Signature of Taxpayer	Date Signed	Phone Number
Signature of Taxpayer	Date Signed	Phone Number
By (Signature and Title)	Date Signed	Phone Number

FOR INTERNAL REVENUE USE ONLY	Date accepted for Commissioner	Signature
	Office	Title

Catalog Number 57315A www.irs.gov (See instructions for Signing Agreement) Form **870-PT** (Rev. 4-2012)

Exhibit
H-18
Daugherty 1/29/2026 L.M.

001739

INSTRUCTIONS FOR SIGNING FORM 870-PT

1. Sign the agreement if you wish to agree to the partnership items *and partnership level determinations as to penalties, additions to tax, and additional amounts*, as shown on the attached Schedule of Adjustments. The execution and filing of this offer will expedite the adjustment of tax liability.

2. If a JOINT RETURN OF A HUSBAND AND WIFE was filed and both spouses intend to agree, both spouses should sign Form 870-PT. One spouse may sign as agent for the other if acting under a power of attorney, which, if not previously filed, must accompany this form. The IRS may accept the signature of only one spouse at its discretion. However, the agreement will only be binding on the signing spouse.

3. If the taxpayer is a corporation, the agreement should be signed with the corporate name followed by the signature and title of the officer authorized to sign Form 870-PT.

4. Your attorney or agent may sign for you if this action is specifically authorized by a power of attorney, which if not previously filed, must accompany this form.

5. If this offer is signed by a trust, the agreement must be signed with the trust name, followed by the signature and title of the person authorized to sign on behalf of the trust. If the trustee is signing this agreement on behalf of the trust and all beneficiaries, a Form 56 must be signed by the trustee. If an individual beneficiary is signing the agreement to bind themselves to the agreement, no Form 56 is needed.

6. If the partner is an LLC, the agreement should be signed by the manager of the LLC or other authority as authorized by State law. The signature line should show: [Name of LLC], by [Name of Manager], Followed by the title [Manager].

7. For a partner who is a subsidiary corporation in a consolidated group:

   - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, the agreement should be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The common parent corporation signs the agreement in its own name. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a).

   - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement and should do so in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(6)(iii). The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block. The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.

8. For a partner who is the common parent corporation of a consolidated group, a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year(s) should sign the agreement in the name of the common parent corporation. See Treas. Reg. § 1.1502-77(a).

9. If the Tax Matters Partner signs this offer, please include the title with the signature.

10. If the Tax Matters Partner is a subsidiary corporation in a consolidated group:

    - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning before June 28, 2002, then a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for such consolidated return year should sign the agreement on behalf of the Tax Matters Partner. The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should be displayed in the signature block. See Treas. Reg. § 1.1502-77A(a). An authorized officer for the subsidiary corporation should also sign if it, as the Tax Matters Partner, is binding non-notice partners under the agreement. The signature and title of a current officer of the subsidiary corporation, who is authorized to bind the corporation, should be displayed in the signature block

    - If the agreement is for a partnership year(s) ending on or before the last day of a consolidated return year beginning on or after June 28, 2002, then a currently authorized officer of the subsidiary corporation should sign the agreement in the name of the subsidiary corporation. See Treas. Reg. § 1.1502-77(a)(3)(v). The agreement should also be signed by a currently authorized officer of the corporation who was the common parent corporation of the consolidated group for the relevant consolidated return year(s). The signature and title of a current officer of the common parent corporation, who is authorized to bind the common parent corporation, should also be displayed in the signature block.

NOTE: The submission of this offer by you and the acceptance of the offer for the Commissioner may result in an additional tax liability to you plus interest as provided by law. If the result is a decrease in tax, the amount of the decrease will be sent to you with interest as provided by law.

Department of the Treasury — Internal Revenue Service

Agreement for Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts

SCHEDULE OF ADJUSTMENTS

NAME OF PARTNERSHIP: Highland Capital Management EIN: 75-2716725	TAX YEAR(S) ENDED		
	12/31/2008		
DETAIL OF ADJUSTMENTS TO ORDINARY INCOME:			
a.			
b.			
c.			
d.			
e.			
f.			
g.			
TOTAL ADJUSTMENTS TO ORDINARY INCOME			
OTHER ADJUSTMENTS			
A. Portfolio income (loss) net short-term gain (loss)			
(1) ADJUSTMENT	166,332,713.00		
(2) AS REPORTED	3,570,236.00		
(3) CORRECTED	169,902,949.00		
(1) ADJUSTMENT			
(2) AS REPORTED			
(3) CORRECTED			

REMARKS:

EXHIBIT 19

PDADV_004687-PDADV_004687

Exhibit
H-19
Daughenty 1/29/2026 L.M.

From: **Brian Collins** BCollins@HighlandCapital.com
Subject: 60-Day Letter – 2008 HCMLP Tax Year (Daugherty)
Date: July 3, 2018 at 10:45 AM
To: Patrick Daugherty phdaugherty@gmail.com

BC

Pat,

As a limited partner in Highland Capital Management, L.P. ("Highland") in 2008, you may have recently received a copy of the 60-Day Letter that was sent to the Tax Matters Partner (TMP) of Highland. The 60-Day Letter relates to the audit of Highland's 2008 partnership tax return and the proposed adjustment by the IRS.

As we indicated in our previous correspondence, Highland (through its TMP) will timely appeal the proposed adjustment. Thereafter, the matter will proceed to the IRS Appeals Office. **At this time, you do not need to take any action.**

We may reach a settlement regarding the 2008 adjustment in IRS Appeals. If so, you will have an opportunity to accept the settlement as to your pro rata share or individually dispute the IRS adjustment in judicial proceedings.

-

Brian C. Collins | DIRECTOR OF HUMAN RESOURCES

HIGHLAND CAPITAL MANAGEMENT

300 Crescent Court | Suite 700 | Dallas, Texas 75201
O: 972.419.4438 | F: 972.628.4137
bcollins@highlandcapital.com | www.highlandcapital.com

DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.

EXHIBIT 20

PDADV_004856-PDADV_004856

Exhibit
H-20
Deposition 1/29/2026 L.M.

From: **Brian Collins** BCollins@HighlandCapital.com
Subject: Status of Field Examiners' Proposed Tax Adjustments – 2008 Tax Year
Date: December 9, 2019 at 8:31 AM
To: phdaugherty@gmail.com

BC

Dear Pat,

As previously advised, a team of Internal Revenue Service ("IRS") field examiners ("Exam") conducted an audit of the 2008 partnership tax return filed on behalf of Highland Capital Management, L.P. ("Highland"). By letter dated December 8, 2017, Exam indicated that they had concluded their audit and provided a summary report proposing certain adjustments to the 2008 return.

After Exam issued its audit report and the closing conference, Highland formally disagreed with the adjustments proposed by Exam. Exam then transferred the matter to its TEFRA unit for formal processing of Highland's appeal. **The matter recently was transferred to the IRS Office of Appeals.** The Appeals Office is an independent division of the IRS that has the authority to resolve tax disputes such as this one, without litigation, in a fair and impartial manner to the taxpayer.

Highland will continue to defend against the proposed adjustments by Exam and prosecute the appeal of those adjustments in the Appeals Office. At this time, we have no further information regarding when the Appeals Office will review Highland's appeal or when a resolution may be made.

Brian C. Collins | DIRECTOR OF HUMAN RESOURCES

HIGHLAND CAPITAL MANAGEMENT

300 Crescent Court | Suite 700 | Dallas, Texas 75201
O: 972.419.4438 | F: 972.628.4137
bcollins@highlandcapital.com | www.highlandcapital.com

DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.

Exhibit 21 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 22 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 23 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 24 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 25 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 26 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 27 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 28 Slipsheet

(Subject to Motion to Seal and Protective Order)

EXHIBIT 29

Section 6621.--Determination of Rate of Interest

26 CFR 301.6621-1: Interest rate.

Rev. Rul. 2020-28

Section 6621 of the Internal Revenue Code establishes the interest rates on overpayments and underpayments of tax. Under section 6621(a)(1), the overpayment rate is the sum of the federal short-term rate plus 3 percentage points (2 percentage points in the case of a corporation), except the rate for the portion of a corporate overpayment of tax exceeding $10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point. Under section 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under section 6601 on any large corporate underpayment, the underpayment rate under section 6621(a)(2) is determined by substituting "5 percentage points" for "3 percentage points." See section 6621(c) and section 301.6621-3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable date. Section 6621(c) and section 301.6621-3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal short-term rate for the first month in each calendar quarter. Section 6621(b)(2)(A) provides that the federal short-term rate determined under section 6621(b)(1) for any month

applies during the first calendar quarter beginning after that month. Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during that month by the Secretary in accordance with section 1274(d), rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, the rate is increased to the next highest full percent).

Notice 88-59, 1988-1 C.B. 546, announced that in determining the quarterly interest rates to be used for overpayments and underpayments of tax under section 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with section 6621 which, pursuant to section 6622, is subject to daily compounding.

The federal short-term rate determined in accordance with section 1274(d) during October 2020 is the rate published in Revenue Ruling 2020-22, 2020-45 IRB 963, to take effect beginning November 1, 2020. The federal short-term rate, rounded to the nearest full percent, based on daily compounding determined during the month of October 2020 is 0 percent. Accordingly, an overpayment rate of 3 percent (2 percent in the case of a corporation) and an underpayment rate of 3 percent are established for the calendar quarter beginning January 1, 2021. The overpayment rate for the portion of a corporate overpayment exceeding $10,000 for the calendar quarter beginning January 1, 2021 is 0.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning January 1, 2021, is 5 percent. These rates apply to amounts bearing interest during that calendar quarter.

Sections 6654(a)(1) and 6655(a)(1) provide that the underpayment rate established under section 6621 applies in determining the addition to tax under sections 6654 and 6655 for failure to pay estimated tax for any taxable year. Thus,

the 3 percent rate also applies to estimated tax underpayments for the first calendar quarter beginning January 1, 2021. Pursuant to section 6621(b)(2)(B), in determining the addition to tax under section 6654 for any taxable year for an individual, the federal short-term rate that applies during the third month following the taxable year also applies during the first 15 days of the fourth month following the taxable year. In addition, pursuant to section 6603(d)(4), the rate of interest on section 6603 deposits is 0 percent for the first calendar quarter in 2021.

Interest factors for daily compound interest for annual rates of 0.5 percent are published in Appendix A of this Revenue Ruling. Interest factors for daily compound interest for annual rates of 2 percent, 3 percent and 5 percent are published in Tables 9, 11, and 15 of Rev. Proc. 95-17, 1995-1 C.B. 563, 565, and 569.

Annual interest rates to be compounded daily pursuant to section 6622 that apply for prior periods are set forth in the tables accompanying this revenue ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Casey R. Conrad of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this revenue ruling, contact Mr. Conrad at (202) 317-6844 (not a toll-free call).

APPENDIX A

365 Day Year

0.5% Compound Rate 184 Days

Days	Factor	Days	Factor	Days	Factor
1	0.000013699	63	0.000863380	125	0.001713784
2	0.000027397	64	0.000877091	126	0.001727506
3	0.000041096	65	0.000890801	127	0.001741228
4	0.000054796	66	0.000904512	128	0.001754951
5	0.000068495	67	0.000918223	129	0.001768673
6	0.000082195	68	0.000931934	130	0.001782396
7	0.000095894	69	0.000945646	131	0.001796119
8	0.000109594	70	0.000959357	132	0.001809843
9	0.000123294	71	0.000973069	133	0.001823566
10	0.000136995	72	0.000986781	134	0.001837290
11	0.000150695	73	0.001000493	135	0.001851013
12	0.000164396	74	0.001014206	136	0.001864737
13	0.000178097	75	0.001027918	137	0.001878462
14	0.000191798	76	0.001041631	138	0.001892186
15	0.000205499	77	0.001055344	139	0.001905910
16	0.000219201	78	0.001069057	140	0.001919635
17	0.000232902	79	0.001082770	141	0.001933360
18	0.000246604	80	0.001096484	142	0.001947085
19	0.000260306	81	0.001110197	143	0.001960811
20	0.000274008	82	0.001123911	144	0.001974536
21	0.000287711	83	0.001137625	145	0.001988262
22	0.000301413	84	0.001151339	146	0.002001988
23	0.000315116	85	0.001165054	147	0.002015714
24	0.000328819	86	0.001178768	148	0.002029440
25	0.000342522	87	0.001192483	149	0.002043166
26	0.000356225	88	0.001206198	150	0.002056893
27	0.000369929	89	0.001219913	151	0.002070620
28	0.000383633	90	0.001233629	152	0.002084347
29	0.000397336	91	0.001247344	153	0.002098074
30	0.000411041	92	0.001261060	154	0.002111801
31	0.000424745	93	0.001274776	155	0.002125529
32	0.000438449	94	0.001288492	156	0.002139257
33	0.000452154	95	0.001302208	157	0.002152985
34	0.000465859	96	0.001315925	158	0.002166713
35	0.000479564	97	0.001329641	159	0.002180441
36	0.000493269	98	0.001343358	160	0.002194169
37	0.000506974	99	0.001357075	161	0.002207898
38	0.000520680	100	0.001370792	162	0.002221627
39	0.000534386	101	0.001384510	163	0.002235356
40	0.000548092	102	0.001398227	164	0.002249085
41	0.000561798	103	0.001411945	165	0.002262815

42	0.000575504	104	0.001425663	166	0.002276544
43	0.000589211	105	0.001439381	167	0.002290274
44	0.000602917	106	0.001453100	168	0.002304004
45	0.000616624	107	0.001466818	169	0.002317734
46	0.000630331	108	0.001480537	170	0.002331465
47	0.000644039	109	0.001494256	171	0.002345195
48	0.000657746	110	0.001507975	172	0.002358926
49	0.000671454	111	0.001521694	173	0.002372657
50	0.000685161	112	0.001535414	174	0.002386388
51	0.000698869	113	0.001549133	175	0.002400120
52	0.000712578	114	0.001562853	176	0.002413851
53	0.000726286	115	0.001576573	177	0.002427583
54	0.000739995	116	0.001590293	178	0.002441315
55	0.000753703	117	0.001604014	179	0.002455047
56	0.000767412	118	0.001617734	180	0.002468779
57	0.000781121	119	0.001631455	181	0.002482511
58	0.000794831	120	0.001645176	182	0.002496244
59	0.000808540	121	0.001658897	183	0.002509977
60	0.000822250	122	0.001672619	184	0.002523710
61	0.000835960	123	0.001686340		
62	0.000849670	124	0.001700062		

366 Day Year

0.5% Compound Rate 184 Days

Days	Factor	Days	Factor	Days	Factor
1	0.000013661	63	0.000861020	125	0.001709097
2	0.000027323	64	0.000874693	126	0.001722782
3	0.000040984	65	0.000888366	127	0.001736467
4	0.000054646	66	0.000902040	128	0.001750152
5	0.000068308	67	0.000915713	129	0.001763837
6	0.000081970	68	0.000929387	130	0.001777522
7	0.000095632	69	0.000943061	131	0.001791208
8	0.000109295	70	0.000956735	132	0.001804893
9	0.000122958	71	0.000970409	133	0.001818579
10	0.000136620	72	0.000984084	134	0.001832265
11	0.000150283	73	0.000997758	135	0.001845951
12	0.000163947	74	0.001011433	136	0.001859638
13	0.000177610	75	0.001025108	137	0.001873324
14	0.000191274	76	0.001038783	138	0.001887011
15	0.000204938	77	0.001052459	139	0.001900698
16	0.000218602	78	0.001066134	140	0.001914385
17	0.000232266	79	0.001079810	141	0.001928073
18	0.000245930	80	0.001093486	142	0.001941760
19	0.000259595	81	0.001107162	143	0.001955448
20	0.000273260	82	0.001120839	144	0.001969136
21	0.000286924	83	0.001134515	145	0.001982824
22	0.000300590	84	0.001148192	146	0.001996512
23	0.000314255	85	0.001161869	147	0.002010201
24	0.000327920	86	0.001175546	148	0.002023889
25	0.000341586	87	0.001189223	149	0.002037578
26	0.000355252	88	0.001202900	150	0.002051267
27	0.000368918	89	0.001216578	151	0.002064957
28	0.000382584	90	0.001230256	152	0.002078646
29	0.000396251	91	0.001243934	153	0.002092336
30	0.000409917	92	0.001257612	154	0.002106025
31	0.000423584	93	0.001271291	155	0.002119715
32	0.000437251	94	0.001284969	156	0.002133405
33	0.000450918	95	0.001298648	157	0.002147096
34	0.000464586	96	0.001312327	158	0.002160786
35	0.000478253	97	0.001326006	159	0.002174477
36	0.000491921	98	0.001339685	160	0.002188168
37	0.000505589	99	0.001353365	161	0.002201859
38	0.000519257	100	0.001367044	162	0.002215550
39	0.000532925	101	0.001380724	163	0.002229242
40	0.000546594	102	0.001394404	164	0.002242933
41	0.000560262	103	0.001408085	165	0.002256625
42	0.000573931	104	0.001421765	166	0.002270317
43	0.000587600	105	0.001435446	167	0.002284010

44	0.000601269	106	0.001449127	168	0.002297702
45	0.000614939	107	0.001462808	169	0.002311395
46	0.000628608	108	0.001476489	170	0.002325087
47	0.000642278	109	0.001490170	171	0.002338780
48	0.000655948	110	0.001503852	172	0.002352473
49	0.000669618	111	0.001517533	173	0.002366167
50	0.000683289	112	0.001531215	174	0.002379860
51	0.000696959	113	0.001544897	175	0.002393554
52	0.000710630	114	0.001558580	176	0.002407248
53	0.000724301	115	0.001572262	177	0.002420942
54	0.000737972	116	0.001585945	178	0.002434636
55	0.000751643	117	0.001599628	179	0.002448331
56	0.000765315	118	0.001613311	180	0.002462025
57	0.000778986	119	0.001626994	181	0.002475720
58	0.000792658	120	0.001640678	182	0.002489415
59	0.000806330	121	0.001654361	183	0.002503110
60	0.000820003	122	0.001668045	184	0.002516806
61	0.000833675	123	0.001681729		
62	0.000847348	124	0.001695413		

TABLE OF INTEREST RATES

PERIODS BEFORE JUL. 1, 1975 - PERIODS ENDING DEC. 31,

1986 OVERPAYMENTS AND UNDERPAYMENTS

PERIOD	RATE	In 1995-1 C.B. DAILY RATE TABLE
Before Jul. 1, 1975	6%	Table 2, pg. 557
Jul. 1, 1975--Jan. 31, 1976	9%	Table 4, pg. 559
Feb. 1, 1976--Jan. 31, 1978	7%	Table 3, pg. 558
Feb. 1, 1978--Jan. 31, 1980	6%	Table 2, pg. 557
Feb. 1, 1980--Jan. 31, 1982	12%	Table 5, pg. 560
Feb. 1, 1982--Dec. 31, 1982	20%	Table 6, pg. 560
Jan. 1, 1983--Jun. 30, 1983	16%	Table 37, pg. 591
Jul. 1, 1983--Dec. 31, 1983	11%	Table 27, pg. 581
Jan. 1, 1984--Jun. 30, 1984	11%	Table 75, pg. 629
Jul. 1, 1984--Dec. 31, 1984	11%	Table 75, pg. 629
Jan. 1, 1985--Jun. 30, 1985	13%	Table 31, pg. 585
Jul. 1, 1985--Dec. 31, 1985	11%	Table 27, pg. 581
Jan. 1, 1986--Jun. 30, 1986	10%	Table 25, pg. 579
Jul. 1, 1986--Dec. 31, 1986	9%	Table 23, pg. 577

TABLE OF INTEREST RATES

FROM JAN. 1, 1987 - Dec. 31, 1998

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B. RATE	TABLE	PG	1995-1 C.B. RATE	TABLE	PG
Jan. 1, 1987--Mar. 31, 1987	8%	21	575	9%	23	577
Apr. 1, 1987--Jun. 30, 1987	8%	21	575	9%	23	577
Jul. 1, 1987--Sep. 30, 1987	8%	21	575	9%	23	577
Oct. 1, 1987--Dec. 31, 1987	9%	23	577	10%	25	579
Jan. 1, 1988--Mar. 31, 1988	10%	73	627	11%	75	629
Apr. 1, 1988--Jun. 30, 1988	9%	71	625	10%	73	627
Jul. 1, 1988--Sep. 30, 1988	9%	71	625	10%	73	627
Oct. 1, 1988--Dec. 31, 1988	10%	73	627	11%	75	629
Jan. 1, 1989--Mar. 31, 1989	10%	25	579	11%	27	581
Apr. 1, 1989--Jun. 30, 1989	11%	27	581	12%	29	583
Jul. 1, 1989--Sep. 30, 1989	11%	27	581	12%	29	583
Oct. 1, 1989--Dec. 31, 1989	10%	25	579	11%	27	581

Jan. 1, 1990--Mar. 31, 1990	10%	25	579	11%	27	581
Apr. 1, 1990--Jun. 30, 1990	10%	25	579	11%	27	581
Jul. 1, 1990--Sep. 30, 1990	10%	25	579	11%	27	581
Oct. 1, 1990--Dec. 31, 1990	10%	25	579	11%	27	581
Jan. 1, 1991--Mar. 31, 1991	10%	25	579	11%	27	581
Apr. 1, 1991--Jun. 30, 1991	9%	23	577	10%	25	579
Jul. 1, 1991--Sep. 30, 1991	9%	23	577	10%	25	579
Oct. 1, 1991--Dec. 31, 1991	9%	23	577	10%	25	579
Jan. 1, 1992--Mar. 31, 1992	8%	69	623	9%	71	625
Apr. 1, 1992--Jun. 30, 1992	7%	67	621	8%	69	623
Jul. 1, 1992--Sep. 30, 1992	7%	67	621	8%	69	623
Oct. 1, 1992--Dec. 31, 1992	6%	65	619	7%	67	621
Jan. 1, 1993--Mar. 31, 1993	6%	17	571	7%	19	573
Apr. 1, 1993--Jun. 30, 1993	6%	17	571	7%	19	573
Jul. 1, 1993--Sep. 30, 1993	6%	17	571	7%	19	573
Oct. 1, 1993--Dec. 31, 1993	6%	17	571	7%	19	573
Jan. 1, 1994--Mar. 31, 1994	6%	17	571	7%	19	573
Apr. 1, 1994--Jun. 30, 1994	6%	17	571	7%	19	573
Jul. 1, 1994--Sep. 30, 1994	7%	19	573	8%	21	575
Oct. 1, 1994--Dec. 31, 1994	8%	21	575	9%	23	577
Jan. 1, 1995--Mar. 31, 1995	8%	21	575	9%	23	577
Apr. 1, 1995--Jun. 30, 1995	9%	23	577	10%	25	579
Jul. 1, 1995--Sep. 30, 1995	8%	21	575	9%	23	577
Oct. 1, 1995--Dec. 31, 1995	8%	21	575	9%	23	577
Jan. 1, 1996--Mar. 31, 1996	8%	69	623	9%	71	625
Apr. 1, 1996--Jun. 30, 1996	7%	67	621	8%	69	623
Jul. 1, 1996--Sep. 30, 1996	8%	69	623	9%	71	625
Oct. 1, 1996--Dec. 31, 1996	8%	69	623	9%	71	625
Jan. 1, 1997--Mar. 31, 1997	8%	21	575	9%	23	577
Apr. 1, 1997--Jun. 30, 1997	8%	21	575	9%	23	577
Jul. 1, 1997--Sep. 30, 1997	8%	21	575	9%	23	577
Oct. 1, 1997--Dec. 31, 1997	8%	21	575	9%	23	577
Jan. 1, 1998--Mar. 31, 1998	8%	21	575	9%	23	577
Apr. 1, 1998--Jun. 30, 1998	7%	19	573	8%	21	575
Jul. 1, 1998--Sep. 30, 1998	7%	19	573	8%	21	575
Oct. 1, 1998--Dec. 31, 1998	7%	19	573	8%	21	575

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 - PRESENT

NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	1995-1 C.B.		
	RATE	TABLE	PAGE
Jan. 1, 1999--Mar. 31, 1999	7%	19	573
Apr. 1, 1999--Jun. 30, 1999	8%	21	575
Jul. 1, 1999--Sep. 30, 1999	8%	21	575
Oct. 1, 1999--Dec. 31, 1999	8%	21	575
Jan. 1, 2000--Mar. 31, 2000	8%	69	623
Apr. 1, 2000--Jun. 30, 2000	9%	71	625
Jul. 1, 2000--Sep. 30, 2000	9%	71	625
Oct. 1, 2000--Dec. 31, 2000	9%	71	625
Jan. 1, 2001--Mar. 31, 2001	9%	23	577
Apr. 1, 2001--Jun. 30, 2001	8%	21	575
Jul. 1, 2001--Sep. 30, 2001	7%	19	573
Oct. 1, 2001--Dec. 31, 2001	7%	19	573
Jan. 1, 2002--Mar. 31, 2002	6%	17	571
Apr. 1, 2002--Jun. 30, 2002	6%	17	571
Jul. 1, 2002--Sep. 30, 2002	6%	17	571
Oct. 1, 2002--Dec. 31, 2002	6%	17	571
Jan. 1, 2003--Mar. 31, 2003	5%	15	569
Apr. 1, 2003--Jun. 30, 2003	5%	15	569
Jul. 1, 2003--Sep. 30, 2003	5%	15	569
Oct. 1, 2003--Dec. 31, 2003	4%	13	567
Jan. 1, 2004--Mar. 31, 2004	4%	61	615
Apr. 1, 2004--Jun. 30, 2004	5%	63	617
Jul. 1, 2004--Sep. 30, 2004	4%	61	615
Oct. 1, 2004--Dec. 31, 2004	5%	63	617
Jan. 1, 2005--Mar. 31, 2005	5%	15	569
Apr. 1, 2005--Jun. 30, 2005	6%	17	571
Jul. 1, 2005--Sep. 30, 2005	6%	17	571
Oct. 1, 2005--Dec. 31, 2005	7%	19	573
Jan. 1, 2006--Mar. 31, 2006	7%	19	573
Apr. 1, 2006--Jun. 30, 2006	7%	19	573
Jul. 1, 2006--Sep. 30, 2006	8%	21	575
Oct. 1, 2006--Dec. 31, 2006	8%	21	575
Jan. 1, 2007--Mar. 31, 2007	8%	21	575
Apr. 1, 2007--Jun. 30, 2007	8%	21	575
Jul. 1, 2007--Sep. 30, 2007	8%	21	575
Oct. 1, 2007--Dec. 31, 2007	8%	21	575
Jan. 1, 2008--Mar. 31, 2008	7%	67	621
Apr. 1, 2008--Jun. 30, 2008	6%	65	619
Jul. 1, 2008--Sep. 30, 2008	5%	63	617

Oct. 1, 2008--Dec. 31, 2008	6%	65	619
Jan. 1, 2009--Mar. 31, 2009	5%	15	569
Apr. 1, 2009--Jun. 30, 2009	4%	13	567
Jul. 1, 2009--Sep. 30, 2009	4%	13	567
Oct. 1, 2009--Dec. 31, 2009	4%	13	567
Jan. 1, 2010--Mar. 31, 2010	4%	13	567
Apr. 1, 2010--Jun. 30, 2010	4%	13	567
Jul. 1, 2010--Sep. 30, 2010	4%	13	567
Oct. 1, 2010--Dec. 31, 2010	4%	13	567
Jan. 1, 2011--Mar. 31, 2011	3%	11	565
Apr. 1, 2011—-Jun. 30, 2011	4%	13	567
Jul. 1, 2011-—Sep. 30, 2011	4%	13	567
Oct. 1, 2011—-Dec. 31, 2011	3%	11	565
Jan. 1, 2012—-Mar. 31, 2012	3%	59	613
Apr. 1, 2012—-Jun. 30, 2012	3%	59	613
Jul. 1, 2012—-Sep. 30, 2012	3%	59	613
Oct. 1, 2012—-Dec. 31, 2012	3%	59	613
Jan. 1, 2013—-Mar. 31, 2013	3%	11	565
Apr. 1, 2013—-Jun. 30, 2013	3%	11	565
Jul. 1, 2013—-Sep. 30, 2013	3%	11	565
Oct. 1, 2013—-Dec. 31, 2013	3%	11	565
Jan. 1, 2014—-Mar. 31, 2014	3%	11	565
Apr. 1, 2014—-Jun. 30, 2014	3%	11	565
Jul. 1, 2014—-Sep. 30, 2014	3%	11	565
Oct. 1, 2014—-Dec. 31, 2014	3%	11	565
Jan. 1, 2015—-Mar. 31, 2015	3%	11	565
Apr. 1, 2015—-Jun. 30, 2015	3%	11	565
Jul. 1, 2015—-Sep. 30, 2015	3%	11	565
Oct. 1. 2015—-Dec. 31, 2015	3%	11	565
Jan. 1, 2016—-Mar. 31, 2016	3%	59	613
Apr. 1, 2016—-Jun. 30, 2016	4%	61	615
Jul. 1, 2016—-Sep. 30, 2016	4%	61	615
Oct. 1, 2016—-Dec. 31, 2016	4%	61	615
Jan. 1, 2017—-Mar. 31, 2017	4%	13	567
Apr. 1, 2017—-Jun. 30, 2017	4%	13	567
Jul. 1, 2017—-Sep. 30, 2017	4%	13	567
Oct. 1, 2017—-Dec. 31, 2017	4%	13	567
Jan. 1, 2018—-Mar. 31, 2018	4%	13	567
Apr. 1, 2018—-Jun. 30, 2018	5%	15	569
Jul. 1, 2018—-Sep. 30, 2018	5%	15	569
Oct. 1, 2018—-Dec. 31, 2018	5%	15	569
Jan. 1, 2019—-Mar. 31, 2019	6%	17	571
Apr. 1, 2019—-Jun. 30, 2019	6%	17	571
Jul. 1, 2019—-Sep. 30, 2019	5%	15	569
Oct. 1, 2019—-Dec. 31, 2019	5%	15	569
Jan. 1, 2020—-Mar. 31, 2020	5%	63	617
Apr. 1, 2020—-Jun. 30, 2020	5%	63	617
Jul. 1, 2020—-Sep. 30, 2020	3%	59	613
Oct. 1, 2020—-Dec. 31, 2020	3%	59	613

Jan. 1, 2021—-Mar. 31, 2021	3%	11	565

TABLE OF INTEREST RATES

FROM JANUARY 1, 1999 - PRESENT

CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995-1 C.B. TABLE	PG	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1999--Mar. 31, 1999	6%	17	571	7%	19	573
Apr. 1, 1999--Jun. 30, 1999	7%	19	573	8%	21	575
Jul. 1, 1999--Sep. 30, 1999	7%	19	573	8%	21	575
Oct. 1, 1999--Dec. 31, 1999	7%	19	573	8%	21	575
Jan. 1, 2000--Mar. 31, 2000	7%	67	621	8%	69	623
Apr. 1, 2000--Jun. 30, 2000	8%	69	623	9%	71	625
Jul. 1, 2000--Sep. 30, 2000	8%	69	623	9%	71	625
Oct. 1, 2000--Dec. 31, 2000	8%	69	623	9%	71	625
Jan. 1, 2001--Mar. 31, 2001	8%	21	575	9%	23	577
Apr. 1, 2001--Jun. 30, 2001	7%	19	573	8%	21	575
Jul. 1, 2001--Sep. 30, 2001	6%	17	571	7%	19	573
Oct. 1, 2001--Dec. 31, 2001	6%	17	571	7%	19	573
Jan. 1, 2002--Mar. 31, 2002	5%	15	569	6%	17	571
Apr. 1, 2002--Jun. 30, 2002	5%	15	569	6%	17	571
Jul. 1, 2002--Sep. 30, 2002	5%	15	569	6%	17	571
Oct. 1, 2002--Dec. 31, 2002	5%	15	569	6%	17	571
Jan. 1, 2003--Mar. 31, 2003	4%	13	567	5%	15	569
Apr. 1, 2003--Jun. 30, 2003	4%	13	567	5%	15	569
Jul. 1, 2003--Sep. 30, 2003	4%	13	567	5%	15	569
Oct. 1, 2003--Dec. 31, 2003	3%	11	565	4%	13	567
Jan. 1, 2004--Mar. 31, 2004	3%	59	613	4%	61	615
Apr. 1, 2004--Jun. 30, 2004	4%	61	615	5%	63	617
Jul. 1, 2004--Sep. 30, 2004	3%	59	613	4%	61	615
Oct. 1, 2004--Dec. 31, 2004	4%	61	615	5%	63	617
Jan. 1, 2005--Mar. 31, 2005	4%	13	567	5%	15	569
Apr. 1, 2005--Jun. 30, 2005	5%	15	569	6%	17	571
Jul. 1, 2005--Sep. 30, 2005	5%	15	569	6%	17	571
Oct. 1, 2005--Dec. 31, 2005	6%	17	571	7%	19	573
Jan. 1, 2006--Mar. 31, 2006	6%	17	571	7%	19	573
Apr. 1, 2006--Jun. 30, 2006	6%	17	571	7%	19	573
Jul. 1, 2006--Sep. 30, 2006	7%	19	573	8%	21	575
Oct. 1, 2006--Dec. 31, 2006	7%	19	573	8%	21	575
Jan. 1, 2007--Mar. 31, 2007	7%	19	573	8%	21	575
Apr. 1, 2007--Jun. 30, 2007	7%	19	573	8%	21	575

Jul. 1, 2007--Sep. 30, 2007	7%	19	573	8%	21	575
Oct. 1, 2007--Dec. 31, 2007	7%	19	573	8%	21	575
Jan. 1, 2008--Mar. 31, 2008	6%	65	619	7%	67	621
Apr. 1, 2008--Jun. 30, 2008	5%	63	617	6%	65	619
Jul. 1, 2008--Sep. 30, 2008	4%	61	615	5%	63	617
Oct. 1, 2008--Dec. 31, 2008	5%	63	617	6%	65	619
Jan. 1, 2009--Mar. 31, 2009	4%	13	567	5%	15	569
Apr. 1, 2009--Jun. 30, 2009	3%	11	565	4%	13	567
Jul. 1, 2009--Sep. 30, 2009	3%	11	565	4%	13	567
Oct. 1, 2009--Dec. 31, 2009	3%	11	565	4%	13	567
Jan. 1, 2010--Mar. 31, 2010	3%	11	565	4%	13	567
Apr. 1, 2010--Jun. 30, 2010	3%	11	565	4%	13	567
Jul. 1, 2010--Sep. 30, 2010	3%	11	565	4%	13	567
Oct. 1, 2010--Dec. 31, 2010	3%	11	565	4%	13	567
Jan. 1, 2011--Mar. 31, 2011	2%	9	563	3%	11	565
Apr. 1, 2011—-Jun. 30, 2011	3%	11	565	4%	13	567
Jul. 1, 2011—-Sep. 30, 2011	3%	11	565	4%	13	567
Oct. 1, 2011—-Dec. 31, 2011	2%	9	563	3%	11	565
Jan. 1, 2012—-Mar. 31, 2012	2%	57	611	3%	59	613
Apr. 1, 2012—-Jun. 30, 2012	2%	57	611	3%	59	613
Jul. 1, 2012—-Sep. 30, 2012	2%	57	611	3%	59	613
Oct. 1, 2012—-Dec. 31, 2012	2%	57	611	3%	59	613
Jan. 1, 2013—-Mar. 31, 2013	2%	9	563	3%	11	565
Apr. 1, 2013—-Jun. 30, 2013	2%	9	563	3%	11	565
Jul. 1, 2013—-Sep. 30, 2013	2%	9	563	3%	11	565
Oct. 1, 2013—-Dec. 31, 2013	2%	9	563	3%	11	565
Jan. 1, 2014—-Mar. 31, 2014	2%	9	563	3%	11	565
Apr. 1, 2014—-Jun. 30, 2014	2%	9	563	3%	11	565
Jul. 1, 2014—-Sep. 30, 2014	2%	9	563	3%	11	565
Oct. 1, 2014—-Dec. 31, 2014	2%	9	563	3%	11	565
Jan. 1, 2015—-Mar. 31, 2015	2%	9	563	3%	11	565
Apr. 1, 2015-—Jun. 30, 2015	2%	9	563	3%	11	565
Jul. 1, 2015—-Sep. 30, 2015	2%	9	563	3%	11	565
Oct. 1, 2015—-Dec. 31, 2015	2%	9	563	3%	11	565
Jan. 1, 2016—-Mar. 31, 2016	2%	57	611	3%	59	613
Apr. 1, 2016—-Jun. 30, 2016	3%	59	613	4%	61	615
Jul. 1, 2016—-Sep. 30, 2016	3%	59	613	4%	61	615
Oct. 1, 2016—-Dec. 31, 2016	3%	59	613	4%	61	615
Jan. 1, 2017—-Mar. 31, 2017	3%	11	565	4%	13	567
Apr. 1, 2017—-Jun. 30, 2017	3%	11	565	4%	13	567
Jul. 1, 2017—-Sep. 30, 2017	3%	11	565	4%	13	567
Oct. 1, 2017—-Dec. 31, 2017	3%	11	565	4%	13	567
Jan. 1, 2018—-Mar. 31, 2018	3%	11	565	4%	13	567
Apr. 1, 2018—-Jun. 30, 2018	4%	13	567	5%	15	569
Jul. 1, 2018—-Sep. 30, 2018	4%	13	567	5%	15	569
Oct. 1, 2018—-Dec. 31, 2018	4%	13	567	5%	15	569
Jan. 1, 2019—-Mar. 31, 2019	5%	15	569	6%	17	571
Apr. 1, 2019—-Jun. 30, 2019	5%	15	569	6%	17	571
Jul. 1, 2019—-Sep. 30, 2019	4%	13	567	5%	15	569
Oct. 1, 2019—-Dec. 31, 2019	4%	13	567	5%	15	569
Jan. 1, 2020—-Mar. 31, 2020	4%	61	615	5%	63	617

Apr. 1, 2020--Jun. 30, 2020	4%	61	615	5%	63	617
Jul. 1, 2020—-Sep. 30, 2020	2%	57	611	3%	59	613
Oct. 1, 2020—-Dec. 31, 2020	2%	57	611	3%	59	613
Jan. 1, 2021—-Mar. 31, 2021	2%	9	563	3%	11	565

TABLE OF INTEREST RATES FOR LARGE CORPORATE UNDERPAYMENTS

FROM JANUARY 1, 1991 - PRESENT

	1995-1 C.B. RATE	TABLE	PG
Jan. 1, 1991--Mar. 31, 1991	13%	31	585
Apr. 1, 1991--Jun. 30, 1991	12%	29	583
Jul. 1, 1991--Sep. 30, 1991	12%	29	583
Oct. 1, 1991--Dec. 31, 1991	12%	29	583
Jan. 1, 1992--Mar. 31, 1992	11%	75	629
Apr. 1, 1992--Jun. 30, 1992	10%	73	627
Jul. 1, 1992--Sep. 30, 1992	10%	73	627
Oct. 1, 1992--Dec. 31, 1992	9%	71	625
Jan. 1, 1993--Mar. 31, 1993	9%	23	577
Apr. 1, 1993--Jun. 30, 1993	9%	23	577
Jul. 1, 1993--Sep. 30, 1993	9%	23	577
Oct. 1, 1993--Dec. 31, 1993	9%	23	577
Jan. 1, 1994--Mar. 31, 1994	9%	23	577
Apr. 1, 1994--Jun. 30, 1994	9%	23	577
Jul. 1, 1994--Sep. 30, 1994	10%	25	579
Oct. 1, 1994--Dec. 31, 1994	11%	27	581
Jan. 1, 1995--Mar. 31, 1995	11%	27	581
Apr. 1, 1995--Jun. 30, 1995	12%	29	583
Jul. 1, 1995--Sep. 30, 1995	11%	27	581
Oct. 1, 1995--Dec. 31, 1995	11%	27	581
Jan. 1, 1996--Mar. 31, 1996	11%	75	629
Apr. 1, 1996--Jun. 30, 1996	10%	73	627
Jul. 1, 1996--Sep. 30, 1996	11%	75	629
Oct. 1, 1996--Dec. 31, 1996	11%	75	629
Jan. 1, 1997--Mar. 31, 1997	11%	27	581
Apr. 1, 1997--Jun. 30, 1997	11%	27	581
Jul. 1, 1997--Sep. 30, 1997	11%	27	581
Oct. 1, 1997--Dec. 31, 1997	11%	27	581
Jan. 1, 1998--Mar. 31, 1998	11%	27	581
Apr. 1, 1998--Jun. 30, 1998	10%	25	579
Jul. 1, 1998--Sep. 30, 1998	10%	25	579
Oct. 1, 1998--Dec. 31, 1998	10%	25	579
Jan. 1, 1999--Mar. 31, 1999	9%	23	577
Apr. 1, 1999--Jun. 30, 1999	10%	25	579
Jul. 1, 1999--Sep. 30, 1999	10%	25	579
Oct. 1, 1999--Dec. 31, 1999	10%	25	579
Jan. 1, 2000--Mar. 31, 2000	10%	73	627
Apr. 1, 2000--Jun. 30, 2000	11%	75	629

Jul. 1, 2000--Sep. 30, 2000	11%	75	629
Oct. 1, 2000--Dec. 31, 2000	11%	75	629
Jan. 1, 2001--Mar. 31, 2001	11%	27	581
Apr. 1, 2001--Jun. 30, 2001	10%	25	579
Jul. 1, 2001--Sep. 30, 2001	9%	23	577
Oct. 1, 2001--Dec. 31, 2001	9%	23	577
Jan. 1, 2002--Mar. 31, 2002	8%	21	575
Apr. 1, 2002--Jun. 30, 2002	8%	21	575
Jul. 1, 2002--Sep. 30, 2002	8%	21	575
Oct. 1, 2002--Dec. 31, 2002	8%	21	575
Jan. 1, 2003--Mar. 31, 2003	7%	19	573
Apr. 1, 2003--Jun. 30, 2003	7%	19	573
Jul. 1, 2003--Sep. 30, 2003	7%	19	573
Oct. 1, 2003--Dec. 31, 2003	6%	17	571
Jan. 1, 2004--Mar. 31, 2004	6%	65	619
Apr. 1, 2004--Jun. 30, 2004	7%	67	621
Jul. 1, 2004--Sep. 30, 2004	6%	65	619
Oct. 1, 2004--Dec. 31, 2004	7%	67	621
Jan. 1, 2005--Mar. 31, 2005	7%	19	573
Apr. 1, 2005--Jun. 30, 2005	8%	21	575
Jul. 1, 2005--Sep. 30, 2005	8%	21	575
Oct. 1, 2005--Dec. 31, 2005	9%	23	577
Jan. 1, 2006--Mar. 31, 2006	9%	23	577
Apr. 1, 2006--Jun. 30, 2006	9%	23	577
Jul. 1, 2006--Sep. 30, 2006	10%	25	579
Oct. 1, 2006--Dec. 31, 2006	10%	25	579
Jan. 1, 2007--Mar. 31, 2007	10%	25	579
Apr. 1, 2007--Jun. 30, 2007	10%	25	579
Jul. 1, 2007--Sep. 30, 2007	10%	25	579
Oct. 1, 2007--Dec. 31, 2007	10%	25	579
Jan. 1, 2008--Mar. 31, 2008	9%	71	625
Apr. 1, 2008--Jun. 30, 2008	8%	69	623
Jul. 1, 2008--Sep. 30, 2008	7%	67	621
Oct. 1, 2008--Dec. 31, 2008	8%	69	623
Jan. 1, 2009--Mar. 31, 2009	7%	19	573
Apr. 1, 2009--Jun. 30, 2009	6%	17	571
Jul. 1, 2009--Sep. 30, 2009	6%	17	571
Oct. 1, 2009--Dec. 31, 2009	6%	17	571
Jan. 1, 2010--Mar. 31, 2010	6%	17	571
Apr. 1, 2010--Jun. 30, 2010	6%	17	571
Jul. 1, 2010--Sep. 30, 2010	6%	17	571
Oct. 1, 2010--Dec. 31, 2010	6%	17	571
Jan. 1, 2011--Mar. 31, 2011	5%	15	569
Apr. 1, 2011—-Jun. 30, 2011	6%	17	571
Jul. 1, 2011—-Sep. 30, 2011	6%	17	571
Oct. 1, 2011—-Dec. 31, 2011	5%	15	569
Jan. 1, 2012—-Mar. 31, 2012	5%	63	617

Apr. 1, 2012—-Jun. 30, 2012	5%	63	617
Jul. 1, 2012—-Sep. 30, 2012	5%	63	617
Oct. 1, 2012—-Dec. 31, 2012	5%	63	617
Jan. 1, 2013—-Mar. 31, 2013	5%	15	569
Apr. 1, 2013—-Jun. 30, 2013	5%	15	569
Jul. 1, 2013—-Sep. 30, 2013	5%	15	569
Oct. 1, 2013—-Dec. 31, 2013	5%	15	569
Jan. 1, 2014—-Mar. 31, 2014	5%	15	569
Apr. 1, 2014—-Jun. 30, 2014	5%	15	569
Jul. 1, 2014—-Sep. 30, 2014	5%	15	569
Oct. 1, 2014—-Dec. 31, 2014	5%	15	569
Jan. 1, 2015—-Mar. 31, 2015	5%	15	569
Apr. 1, 2015—-Jun. 30, 2015	5%	15	569
Jul. 1, 2015—-Sep. 30, 2015	5%	15	569
Oct. 1, 2015—-Dec. 31, 2015	5%	15	569
Jan. 1, 2016—-Mar. 31, 2016	5%	63	617
Apr. 1, 2016-—Jun. 30, 2016	6%	65	619
Jul. 1, 2016-—Sep. 30, 2016	6%	65	619
Oct. 1, 2016-—Dec. 31, 2016	6%	65	619
Jan. 1, 2017—-Mar. 31, 2017	6%	17	571
Apr. 1, 2017—-Jun. 30, 2017	6%	17	571
Jul. 1, 2017—-Sep. 30, 2017	6%	17	571
Oct. 1, 2017—-Dec. 31, 2017	6%	17	571
Jan. 1, 2018—-Mar. 31, 2018	6%	17	571
Apr. 1, 2018—-Jun. 30, 2018	7%	19	573
Jul. 1, 2018—-Sep. 30, 2018	7%	19	573
Oct. 1, 2018—-Dec. 31, 2018	7%	19	573
Jan. 1, 2019—-Mar. 31, 2019	8%	21	575
Apr. 1, 2019—-Jun. 30, 2019	8%	21	575
Jul. 1, 2019—-Sep. 30, 2019	7%	19	573
Oct. 1, 2019—-Dec. 31, 2019	7%	19	573
Jan. 1, 2020—-Mar. 31, 2020	7%	67	621
Apr. 1, 2020—-Jun. 30, 2020	7%	67	621
Jul. 1, 2020—-Sep. 30, 2020	5%	63	617
Oct. 1, 2020—-Dec. 31, 2020	5%	63	617
Jan. 1, 2021—-Mar. 31, 2021	5%	15	569

TABLE OF INTEREST RATES FOR CORPORATE OVERPAYMENTS EXCEEDING $10,000

FROM JANUARY 1, 1995 – PRESENT

	1995-1 RATE	C.B. TABLE	PG
Jan. 1, 1995--Mar. 31, 1995	6.5%	18	572
Apr. 1, 1995--Jun. 30, 1995	7.5%	20	574
Jul. 1, 1995--Sep. 30, 1995	6.5%	18	572
Oct. 1, 1995--Dec. 31, 1995	6.5%	18	572
Jan. 1, 1996--Mar. 31, 1996	6.5%	66	620
Apr. 1, 1996--Jun. 30, 1996	5.5%	64	618
Jul. 1, 1996--Sep. 30, 1996	6.5%	66	620
Oct. 1, 1996--Dec. 31, 1996	6.5%	66	620
Jan. 1, 1997--Mar. 31, 1997	6.5%	18	572
Apr. 1, 1997--Jun. 30, 1997	6.5%	18	572
Jul. 1, 1997--Sep. 30, 1997	6.5%	18	572
Oct. 1, 1997--Dec. 31, 1997	6.5%	18	572
Jan. 1, 1998--Mar. 31, 1998	6.5%	18	572
Apr. 1, 1998--Jun. 30, 1998	5.5%	16	570
Jul. 1. 1998--Sep. 30, 1998	5.5%	16	570
Oct. 1, 1998--Dec. 31, 1998	5.5%	16	570
Jan. 1, 1999--Mar. 31, 1999	4.5%	14	568
Apr. 1, 1999--Jun. 30, 1999	5.5%	16	570
Jul. 1, 1999--Sep. 30, 1999	5.5%	16	570
Oct. 1, 1999--Dec. 31, 1999	5.5%	16	570
Jan. 1, 2000--Mar. 31, 2000	5.5%	64	618
Apr. 1, 2000--Jun. 30, 2000	6.5%	66	620
Jul. 1, 2000--Sep. 30, 2000	6.5%	66	620
Oct. 1, 2000--Dec. 31, 2000	6.5%	66	620
Jan. 1, 2001--Mar. 31, 2001	6.5%	18	572
Apr. 1, 2001--Jun. 30, 2001	5.5%	16	570
Jul. 1, 2001--Sep. 30, 2001	4.5%	14	568
Oct. 1, 2001--Dec. 31, 2001	4.5%	14	568
Jan. 1, 2002--Mar. 31, 2002	3.5%	12	566
Apr. 1, 2002--Jun. 30, 2002	3.5%	12	566
Jul. 1, 2002--Sep. 30, 2002	3.5%	12	566
Oct. 1, 2002--Dec. 31, 2002	3.5%	12	566
Jan. 1, 2003--Mar. 31, 2003	2.5%	10	564
Apr. 1, 2003--Jun. 30, 2003	2.5%	10	564
Jul. 1, 2003--Sep. 30, 2003	2.5%	10	564
Oct. 1, 2003--Dec. 31, 2003	1.5%	8	562
Jan. 1, 2004--Mar. 31, 2004	1.5%	56	610
Apr. 1, 2004--Jun. 30, 2004	2.5%	58	612
Jul. 1, 2004--Sep. 30, 2004	1.5%	56	610

Oct. 1, 2004--Dec. 31, 2004	2.5%	58	612
Jan. 1, 2005--Mar. 31, 2005	2.5%	10	564
Apr. 1, 2005--Jun. 30, 2005	3.5%	12	566
Jul. 1, 2005--Sep. 30, 2005	3.5%	12	566
Oct. 1, 2005--Dec. 31, 2005	4.5%	14	568
Jan. 1, 2006--Mar. 31, 2006	4.5%	14	568
Apr. 1, 2006--Jun. 30, 2006	4.5%	14	568
Jul. 1, 2006--Sep. 30, 2006	5.5%	16	570
Oct. 1, 2006--Dec. 31, 2006	5.5%	16	570
Jan. 1, 2007--Mar. 31, 2007	5.5%	16	570
Apr. 1, 2007--Jun. 30, 2007	5.5%	16	570
Jul. 1, 2007--Sep. 30, 2007	5.5%	16	570
Oct. 1, 2007--Dec. 31, 2007	5.5%	16	570
Jan. 1, 2008--Mar. 31, 2008	4.5%	62	616
Apr. 1, 2008--Jun. 30, 2008	3.5%	60	614
Jul. 1, 2008--Sep. 30, 2008	2.5%	58	612
Oct. 1, 2008--Dec. 31, 2008	3.5%	60	614
Jan. 1, 2009--Mar. 31, 2009	2.5%	10	564
Apr. 1, 2009--Jun. 30, 2009	1.5%	8	562
Jul. 1, 2009--Sep. 30, 2009	1.5%	8	562
Oct. 1, 2009--Dec. 31, 2009	1.5%	8	562
Jan. 1, 2010--Mar. 31, 2010	1.5%	8	562
Apr. 1, 2010--Jun. 30, 2010	1.5%	8	562
Jul. 1, 2010--Sep. 30, 2010	1.5%	8	562
Oct. 1, 2010--Dec. 31, 2010	1.5%	8	562
Jan. 1, 2011--Mar. 31, 2011	0.5%*		
Apr. 1, 2011—-Jun. 30, 2011	1.5%	8	562
Jul. 1, 2011-—Sep. 30, 2011	1.5%	8	562
Oct. 1, 2011—-Dec. 31, 2011	0.5%*		
Jan. 1, 2012—-Mar. 31, 2012	0.5%*		
Apr. 1, 2012—-Jun. 30, 2012	0.5%*		
Jul. 1, 2012—-Sep. 30, 2012	0.5%*		
Oct. 1, 2012—-Dec. 31, 2012	0.5%*		
Jan. 1, 2013—-Mar. 31, 2013	0.5%*		
Apr. 1, 2013—-Jun. 30, 2013	0.5%*		
Jul. 1, 2013—-Sep. 30, 2013	0.5%*		
Oct. 1, 2013—-Dec. 31, 2013	0.5%*		
Jan. 1, 2014—-Mar. 31, 2014	0.5%*		
Apr. 1, 2014—-Jun. 30, 2014	0.5%*		
Jul. 1, 2014—-Sep. 30, 2014	0.5%*		

Oct. 1, 2014—-Dec. 31, 2014	0.5%*		
Jan. 1, 2015—-Mar. 31, 2015	0.5%*		
Apr. 1, 2015—-Jun. 30, 2015	0.5%*		
Jul. 1, 2015—-Sep. 30, 2015	0.5%*		
Oct. 1, 2015—-Dec. 31, 2015	0.5%*		
Jan. 1, 2016—-Mar. 31, 2016	0.5%*		
Apr. 1, 2016—-Jun. 30, 2016	1.5%	56	610
Jul. 1, 2016—-Sep. 30, 2016	1.5%	56	610
Oct. 1, 2016—-Dec. 31, 2016	1.5%	56	610
Jan. 1, 2017—-Mar. 31, 2017	1.5%	8	562
Apr. 1, 2017—-Jun. 30, 2017	1.5%	8	562
Jul. 1, 2017—-Sep. 30, 2017	1.5%	8	562
Oct. 1, 2017—-Dec. 31, 2017	1.5%	8	562
Jan. 1, 2018—-Mar. 31, 2018	1.5%	8	562
Apr. 1, 2018—-Jun. 30, 2018	2.5%	10	564
Jul. 1, 2018—-Sep. 30, 2018	2.5%	10	564
Oct. 1, 2018—-Dec. 31, 2018	2.5%	10	564
Jan. 1, 2019—-Mar. 31, 2019	3.5%	12	566
Apr. 1, 2019—-Jun. 30, 2019	3.5%	12	566
Jul. 1, 2019—-Sep. 30, 2019	2.5%	10	564
Oct. 1, 2019—-Dec. 31, 2019	2.5%	10	564
Jan. 1, 2020—-Mar. 31, 2020	2.5%	58	612
Apr. 1, 2020—-Jun. 30, 2020	2.5%	58	612
Jul. 1, 2020—-Sep. 30, 2020	0.5%*		
Oct. 1, 2020—-Dec. 31, 2020	0.5%*		
Jan. 1, 2021—-Mar. 31, 2021	0.5%*		

* The asterisk reflects the interest factors for daily compound interest for annual rates of 0.5 percent published in Appendix A of this Revenue Ruling.

EXHIBIT 30

26 USC 6662: Imposition of accuracy-related penalty on underpayments
Text contains those laws in effect on February 16, 2026

From Title 26-INTERNAL REVENUE CODE
Subtitle F-Procedure and Administration
CHAPTER 68-ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES
Subchapter A-Additions to the Tax and Additional Amounts
PART II-ACCURACY-RELATED AND FRAUD PENALTIES

Jump To:
Source Credit
Miscellaneous
Codification
Prior Provisions
Amendments
Effective Date

§6662. Imposition of accuracy-related penalty on underpayments

(a) Imposition of penalty

If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

(b) Portion of underpayment to which section applies

This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following:
(1) Negligence or disregard of rules or regulations.
(2) Any substantial understatement of income tax.
(3) Any substantial valuation misstatement under chapter 1.
(4) Any substantial overstatement of pension liabilities.
(5) Any substantial estate or gift tax valuation understatement.
(6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.
(7) Any undisclosed foreign financial asset understatement.
(8) Any inconsistent estate basis.
(9) Any overstatement of the deduction provided in section 170(p).
(10) Any disallowance of a deduction by reason of section 170(h)(7).

This section shall not apply to any portion of an underpayment on which a penalty is imposed under section 6663. Except as provided in paragraph (1) or (2)(B) of section 6662A(e), this section shall not apply to the portion of any underpayment which is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A.

(c) Negligence

For purposes of this section, the term "negligence" includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term "disregard" includes any careless, reckless, or intentional disregard.

(d) Substantial understatement of income tax

(1) Substantial understatement

(A) In general

For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of-
(i) 10 percent of the tax required to be shown on the return for the taxable year, or
(ii) $5,000.

(B) Special rule for corporations

In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of-
(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or
(ii) $10,000,000.

(C) Special rule for taxpayers claiming section 199A deduction

In the case of any taxpayer who claims any deduction allowed under section 199A for the taxable year, subparagraph (A) shall be applied by substituting "5 percent" for "10 percent".

(2) Understatement

(A) In general

For purposes of paragraph (1), the term "understatement" means the excess of-

(i) the amount of the tax required to be shown on the return for the taxable year, over

(ii) the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.

(B) Reduction for understatement due to position of taxpayer or disclosed item

The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to-

(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

(ii) any item if-

(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

(II) there is a reasonable basis for the tax treatment of such item by the taxpayer.

For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.

(C) Reduction not to apply to tax shelters

(i) In general

Subparagraph (B) shall not apply to any item attributable to a tax shelter.

(ii) Tax shelter

For purposes of clause (i), the term "tax shelter" means-

(I) a partnership or other entity,

(II) any investment plan or arrangement, or

(III) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

(3) Secretarial list

The Secretary may prescribe a list of positions which the Secretary believes do not meet 1 or more of the standards specified in paragraph (2)(B)(i), section 6664(d)(3), and section 6694(a)(1). Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.

(e) Substantial valuation misstatement under chapter 1

(1) In general

For purposes of this section, there is a substantial valuation misstatement under chapter 1 if-

(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 150 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

(B)(i) the price for any property or services (or for the use of property) claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of $5,000,000 or 10 percent of the taxpayer's gross receipts.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

(3) Net section 482 transfer price adjustment

For purposes of this subsection-

(A) In general

The term "net section 482 transfer price adjustment" means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the price for any property or services (or for the use of property).

(B) Certain adjustments excluded in determining threshold

For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if-

(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations prescribed under section 482 and that the taxpayer's use of such method was reasonable,

(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method if-

(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to determine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and

(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.

(C) Special rule

If the regular tax (as defined in section 55(c)) imposed by chapter 1 on the taxpayer is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of this paragraph.

(D) Coordination with reasonable cause exception

For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion.

(f) Substantial overstatement of pension liabilities

(1) In general

For purposes of this section, there is a substantial overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) is 200 percent or more of the amount determined to be the correct amount of such liabilities.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(4) unless the portion of the underpayment for the taxable year attributable to substantial overstatements of pension liabilities exceeds $1,000.

(g) Substantial estate or gift tax valuation understatement

(1) In general

For purposes of this section, there is a substantial estate or gift tax valuation understatement if the value of any property claimed on any return of tax imposed by subtitle B is 65 percent or less of the amount determined to be the correct amount of such valuation.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(5) unless the portion of the underpayment attributable to substantial estate or gift tax valuation understatements for the taxable period (or, in the case of the tax imposed by chapter 11, with respect to the estate of the decedent) exceeds $5,000.

(h) Increase in penalty in case of gross valuation misstatements

(1) In general

To the extent that a portion of the underpayment to which this section applies is attributable to one or more gross valuation misstatements, subsection (a) shall be applied with respect to such portion by substituting "40 percent" for "20 percent".

(2) Gross valuation misstatements

The term "gross valuation misstatements" means-

(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting-

(i) in paragraph (1)(A), "200 percent" for "150 percent",

(ii) in paragraph (1)(B)(i)-

(I) "400 percent" for "200 percent", and

(II) "25 percent" for "50 percent", and

(iii) in paragraph (1)(B)(ii)-

(I) "$20,000,000" for "$5,000,000", and

(II) "20 percent" for "10 percent".

(B) any substantial overstatement of pension liabilities as determined under subsection (f) by substituting "400 percent" for "200 percent",

(C) any substantial estate or gift tax valuation understatement as determined under subsection (g) by substituting "40 percent" for "65 percent", and

(D) any disallowance of a deduction described in subsection (b)(10).

(i) Increase in penalty in case of nondisclosed noneconomic substance transactions

(1) In general

In the case of any portion of an underpayment which is attributable to one or more nondisclosed noneconomic substance transactions, subsection (a) shall be applied with respect to such portion by substituting "40 percent" for "20 percent".

(2) Nondisclosed noneconomic substance transactions

For purposes of this subsection, the term "nondisclosed noneconomic substance transaction" means any portion of a transaction described in subsection (b)(6) with respect to which the relevant facts affecting the tax treatment are not adequately disclosed in the return nor in a statement attached to the return.

(3) Special rule for amended returns

In no event shall any amendment or supplement to a return of tax be taken into account for purposes of this subsection if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

(j) Undisclosed foreign financial asset understatement

(1) In general

For purposes of this section, the term "undisclosed foreign financial asset understatement" means, for any taxable year, the portion of the understatement for such taxable year which is attributable to any transaction involving an undisclosed foreign financial asset.

(2) Undisclosed foreign financial asset

For purposes of this subsection, the term "undisclosed foreign financial asset" means, with respect to any taxable year, any asset with respect to which information was required to be provided under section 6038, 6038B, 6038D, 6046A, or 6048 for such taxable year but was not provided by the taxpayer as required under the provisions of those sections.

(3) Increase in penalty for undisclosed foreign financial asset understatements

In the case of any portion of an underpayment which is attributable to any undisclosed foreign financial asset understatement, subsection (a) shall be applied with respect to such portion by substituting "40 percent" for "20 percent".

(k) Inconsistent estate basis reporting

For purposes of this section, the term "inconsistent estate basis" means any portion of an underpayment attributable to the failure to comply with section 1014(f).

(l) Increase in penalty in case of overstatement of qualified charitable contributions

In the case of any portion of an underpayment which is attributable to one or more overstatements of the deduction provided in section 170(p), subsection (a) shall be applied with respect to such portion by substituting "50 percent" for "20 percent".

(m) Substantial understatement of income tax due to disallowance of applicable energy credits

(1) In general

In the case of a taxpayer for which there is a disallowance of an applicable energy credit for any taxable year, for purposes of determining whether there is a substantial understatement of income tax for such taxable year, subsection (d)(1) shall be applied-

(A) in subparagraphs (A) and (B), by substituting "1 percent" for "10 percent" each place it appears, and

(B) without regard to subparagraph (C).

(2) Disallowance of an applicable energy credit

For purposes of this subsection, the term "disallowance of an applicable energy credit" means the disallowance of a credit under section 45X, 45Y, or 48E by reason of overstating the material assistance cost ratio (as determined under section 7701(a)(52)) with respect to any qualified facility, energy storage technology, or facility which produces eligible components.

(Added Pub. L. 101–239, title VII, §7721(a), Dec. 19, 1989, 103 Stat. 2395 ; amended Pub. L. 101–508, title XI, §11312(a), (b), Nov. 5, 1990, 104 Stat. 1388–454 , 1388-455; Pub. L. 103–66, title XIII, §§13236(a)–(d), 13251(a), Aug. 10, 1993, 107 Stat. 505 , 506, 531; Pub. L. 103–465, title VII, §744(a), (b), Dec. 8, 1994, 108 Stat. 5011 ; Pub. L. 105–34, title X, §1028(c), Aug. 5, 1997, 111 Stat. 928 ; Pub. L. 108–357, title VIII, §§812(b), (d), (e)(1), 819(a), (b), Oct. 22, 2004, 118 Stat. 1578 , 1580, 1584; Pub. L. 109–135, title IV, §§403(x)(1), 412(aaa), Dec. 21, 2005, 119 Stat. 2629 , 2641; Pub. L. 109–280, title XII, §1219(a)(1), (2), Aug. 17, 2006, 120 Stat. 1083 ; Pub. L. 111–147, title V, §512(a), Mar. 18, 2010, 124 Stat. 110 ; Pub. L. 111–152, title I, §1409(b)(1), (2), Mar. 30, 2010, 124 Stat. 1068 , 1069; Pub. L. 113–295, div. A, title II, §208(a), Dec. 19, 2014, 128 Stat. 4028 ; Pub. L. 114–41, title II, §2004(c), July 31, 2015, 129 Stat. 456 ; Pub. L. 115–97, title I, §11011(c), Dec. 22, 2017, 131 Stat. 2070 ; Pub. L. 115–141, div. T, §101(a)(2)(A), div. U, title I, §104(a), title IV, §401(a)(303), (304), Mar. 23, 2018, 132 Stat. 1155 , 1170, 1199; Pub. L. 116–260, div. EE, title II, §212(b)(1), (2), Dec. 27, 2020, 134 Stat. 3067 ; Pub. L. 117–328, div. T, title VI, §605(a)(2)(A), (B), Dec. 29, 2022, 136 Stat. 5394 ; Pub. L. 119–21, title VII, §70512(j)(1), July 4, 2025, 139 Stat. 268 .)

Editorial Notes

Codification

Another section 212(b) of div. EE of Pub. L. 116–260 amended section 63 of this title.

Section 1409(b)(1), (2) of Pub. L. 111–152, which directed the amendment of section 6662 without specifying the act to be amended, was executed to this section, which is section 6662 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2010 Amendment notes below.

Section 1219(a)(1), (2) of Pub. L. 109–280, which directed the amendment of section 6662 without specifying the act to be amended, was executed to this section, which is section 6662 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

Prior Provisions

A prior section 6662, acts Aug. 16, 1954, ch. 736, 68A Stat. 827 , §6659; May 14, 1960, Pub. L. 86–470, §1, 74 Stat. 132 ; Dec. 30, 1969, Pub. L. 91–172, title I, §101(j)(51), 83 Stat. 531 ; Sept. 2, 1974, Pub. L. 93–406, title II, §1016(a)(19), 88 Stat. 931 ; renumbered §6660, Aug. 13, 1981, Pub. L. 97–34, title VII, §722(a)(1), 95 Stat. 341 ; renumbered §6662, Sept. 3, 1982, Pub. L. 97–248, title III, §323(a), 96 Stat. 613 , directed that additions be treated as tax and set procedure for assessing certain additions to tax, prior to repeal by Pub. L. 101–239, title VII, §7721(a), Dec. 19, 1989, 103 Stat. 2395 , applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989. See section 6665 of this title.

Amendments

2025-Subsec. (m). Pub. L. 119–21 added subsec. (m).

2022-Subsec. (b)(10). Pub. L. 117–328, §605(a)(2)(A), added par. (10).

Subsec. (h)(2)(D). Pub. L. 117–328, §605(a)(2)(B), added subpar. (D).

2020-Subsec. (b)(9). Pub. L. 116–260, §212(b)(1), added par. (9).

Subsec. (l). Pub. L. 116–260, §212(b)(2), added subsec. (l).

2018-Subsec. (d)(1)(C). Pub. L. 115–141, §101(a)(2)(A), substituted "any deduction" for "the deduction".

Subsec. (d)(3). Pub. L. 115–141, §401(a)(303), substituted "section 6664(d)(3)" for "section 6664(d)(2)".

Subsecs. (i), (j). Pub. L. 115–141, §401(a)(304), transferred subsec. (i) to appear before subsec. (j).

Subsec. (k). Pub. L. 115–141, §104(a), amended subsec. (k) generally. Prior to amendment, text read as follows: "For purposes of this section, there is an 'inconsistent estate basis' if the basis of property claimed on a return exceeds the basis as determined under section 1014(f)."

2017-Subsec. (d)(1)(C). Pub. L. 115–97 added subpar. (C).

2015-Subsec. (b)(8). Pub. L. 114–41, §2004(c)(1), added par. (8).

Subsec. (k). Pub. L. 114–41, §2004(c)(2), added subsec. (k).

2014-Subsec. (b)(7). Pub. L. 113–295, §208(a), amended directory language of Pub. L. 111–147, §512(a)(1). See 2010 Amendment note below.

2010-Subsec. (b)(6). Pub. L. 111–152, §1409(b)(1), added par. (6). See Codification note above.

Subsec. (b)(7). Pub. L. 111–147, §512(a)(1), as amended by Pub. L. 113–295, §208(a), added par. (7).

Subsec. (i). Pub. L. 111–152, §1409(b)(2), added subsec. (i). See Codification note above.

Subsec. (j). Pub. L. 111–147, §512(a)(2), added subsec. (j).

2006-Subsec. (e)(1)(A). Pub. L. 109–280, §1219(a)(1)(A), substituted "150 percent" for "200 percent". See Codification note above.

Subsec. (g)(1). Pub. L. 109–280, §1219(a)(1)(B), substituted "65 percent" for "50 percent". See Codification note above.

Subsec. (h)(2)(A)(i), (ii). Pub. L. 109–280, §1219(a)(2)(A), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and".

See Codification note above.

Subsec. (h)(2)(C). Pub. L. 109–280, §1219(a)(2)(B), substituted " '40 percent' for '65 percent' " for " '25 percent' for '50 percent' ". See Codification note above.

2005-Subsec. (b). Pub. L. 109–135, §403(x)(1), inserted at end "Except as provided in paragraph (1) or (2)(B) of section 6662A(e), this section shall not apply to the portion of any underpayment which is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A."

Subsec. (d)(3). Pub. L. 109–135, §412(aaa), struck out "the" before "1 or more".

2004-Pub. L. 108–357, §812(e)(1), inserted "on underpayments" after "penalty" in section catchline.

Subsec. (d)(1)(B). Pub. L. 108–357, §819(a), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: "In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting '$10,000' for '$5,000'."

Subsec. (d)(2)(A). Pub. L. 108–357, §812(b), inserted concluding provisions.

Subsec. (d)(2)(C). Pub. L. 108–357, §812(d), amended subpar. (C) generally, substituting provisions relating to inapplicability of subpar. (B) to any item attributable to a tax shelter and defining the term "tax shelter" for provisions relating to, in the case of any item of a taxpayer other than a corporation which is attributable to a tax shelter, inapplicability of subpar. (B)(ii) and inapplicability of subpar. (B)(i), unless the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment, inapplicability of subpar. (B) to any item of a corporation which is attributable to a tax shelter, and provisions defining the term "tax shelter".

Subsec. (d)(2)(D). Pub. L. 108–357, §819(b)(2), struck out heading and text of subpar. (D). Text read as follows: "The Secretary shall prescribe (and revise not less frequently than annually) a list of positions-

"(i) for which the Secretary believes there is not substantial authority, and

"(ii) which affect a significant number of taxpayers.

Such list (and any revision thereof) shall be published in the Federal Register."

Subsec. (d)(3). Pub. L. 108–357, §819(b)(1), added par. (3).

1997-Subsec. (d)(2)(B). Pub. L. 105–34, §1028(c)(1), inserted concluding provisions.

Subsec. (d)(2)(C)(iii). Pub. L. 105–34, §1028(c)(2), substituted "a significant purpose" for "the principal purpose" in concluding provisions.

1994-Subsec. (d)(2)(C)(i). Pub. L. 103–465, §744(b)(1), substituted "In the case of any item of a taxpayer other than a corporation which is" for "In the case of any item" in introductory provisions.

Subsec. (d)(2)(C)(ii). Pub. L. 103–465, §744(a), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (d)(2)(C)(iii). Pub. L. 103–465, §744(a), (b)(2), redesignated cl. (ii) as (iii) and substituted "this subparagraph" for "clause (i)" in introductory provisions.

1993-Subsec. (d)(2)(B)(ii). Pub. L. 103–66, §13251(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return."

Subsec. (e)(1)(B)(ii). Pub. L. 103–66, §13236(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000."

Subsec. (e)(3)(B). Pub. L. 103–66, §13236(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: "For purposes of determining whether the $10,000,000 threshold requirement of paragraph (1)(B)(ii) is met, there shall be excluded-

"(i) any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if it is shown that there was a reasonable cause for the taxpayer's determination of such price and that the taxpayer acted in good faith with respect to such price, and

(ii) any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any of such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States."

Subsec. (e)(3)(D). Pub. L. 103–66, §13236(c), added subpar. (D).

Subsec. (h)(2)(A)(iii). Pub. L. 103–66, §13236(d), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: " '$20,000,000' for '$10,000,000',".

1990-Subsec. (b)(3). Pub. L. 101–508, §11312(b)(1), amended par. (3) generally, substituting "misstatement" for "overstatement".

Subsec. (e). Pub. L. 101–508, §11312(a), substituted "misstatement" for "overstatement" in heading and amended text generally. Prior to amendment, text read as follows:

"(1) In general.-For purposes of this section, there is a substantial valuation overstatement under chapter 1 if the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).

"(2) Limitation.-No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation overstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542))."

Subsec. (h)(2)(A). Pub. L. 101–508, §11312(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "any substantial valuation overstatement under chapter 1 as determined under subsection (e) by substituting '400 percent' for '200 percent',".

Statutory Notes and Related Subsidiaries

Effective Date of 2025 Amendment

Amendment by Pub. L. 119–21 applicable to taxable years beginning after July 4, 2025, see section 70512(l)(1) of Pub. L. 119–21, set out in a note under section 45 of this title.

Effective Date of 2022 Amendment

Amendment by Pub. L. 117–328 applicable to contributions made after Dec. 29, 2022, see section 605(c)(1) of Pub. L. 117–328, set out as a note under section 170 of this title.

Effective Date of 2020 Amendment

Amendment by Pub. L. 116–260 applicable to taxable years beginning after Dec. 31, 2020, see section 212(d) of div. EE of Pub. L. 116–260, set out as a note under section 62 of this title.

Effective Date of 2018 Amendment

Amendment by section 101(a)(2)(A) of Pub. L. 115–141 effective as if included in section 11011 of Pub. L. 115–97, see section 101(d) of Pub. L. 115–141, set out as a note under section 62 of this title.

Pub. L. 115–141, div. U, title I, §104(c), Mar. 23, 2018, 132 Stat. 1170 , provided that: "The amendments made by this section [amending this section and section 9503 of this title] shall take effect as if included in the provision of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 [Pub. L. 114–41] to which they relate."

Effective Date of 2017 Amendment

Amendment by Pub. L. 115–97 applicable to taxable years beginning after Dec. 31, 2017, see section 11011(e) of Pub. L. 115–97, set out as a note under section 62 of this title.

Effective Date of 2015 Amendment

Amendment by Pub. L. 114–41 applicable to property with respect to which an estate tax return is filed after July 31, 2015, see section 2004(d) of Pub. L. 114–41, set out as a note under section 1014 of this title.

Effective Date of 2014 Amendment

Pub. L. 113–295, div. A, title II, §208(b), Dec. 19, 2014, 128 Stat. 4028 , provided that: "The amendment made by this section [amending this section] shall take effect as if included in the provision of the Hiring Incentives to Restore Employment Act [Pub. L. 111–147] to which it relates."

Effective Date of 2010 Amendment

Pub. L. 111–152, title I, §1409(e), Mar. 30, 2010, 124 Stat. 1070 , provided that:

"(1) IN GENERAL.-Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 6662A, 6664, 6676, and 7701 of this title] shall apply to transactions entered into after the date of the enactment of this Act [Mar. 30, 2010].

"(2) UNDERPAYMENTS.-The amendments made by subsections (b) and (c)(1) [amending this section and sections 6662A and 6664 of this title] shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

"(3) UNDERSTATEMENTS.-The amendments made by subsection (c)(2) [amending section 6664 of this title] shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

"(4) REFUNDS AND CREDITS.-The amendment made by subsection (d) [amending section 6676 of this title] shall apply to refunds and credits attributable to transactions entered into after the date of the enactment of this Act."

Pub. L. 111–147, title V, §512(b), Mar. 18, 2010, 124 Stat. 111 , provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Mar. 18, 2010]."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–280 applicable to returns filed after Aug. 17, 2006, with special rule for certain easements, see section 1219(e)(1), (3) of Pub. L. 109–280, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 403(x)(1) of Pub. L. 109–135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108–357, to which such amendment relates, see section 403(nn) of Pub. L. 109–135, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VIII, §812(f), Oct. 22, 2004, 118 Stat. 1580 , as amended by Pub. L. 109–135, title IV, §403(x)(3), Dec. 21, 2005, 119 Stat. 2629 , provided that:

"(1) IN GENERAL.-Except as provided in paragraph (2), the amendments made by this section [enacting section 6662A of this title and amending this section and section 6664 of this title] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 22, 2004].

"(2) DISQUALIFIED OPINIONS.-Section 6664(d)(3)(B) of the Internal Revenue Code of 1986 [now section 6664(d)(4)(B)] (as added by subsection (c)) shall not apply to the opinion of a tax advisor if-

"(A) the opinion was provided to the taxpayer before the date of the enactment of this Act,

"(B) the opinion relates to one or more transactions all of which were entered into before such date, and

"(C) the tax treatment of items relating to each such transaction was included on a return or statement filed by the taxpayer before such date."

Pub. L. 108–357, title VIII, §819(c), Oct. 22, 2004, 118 Stat. 1585 , provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 2004]."

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to items with respect to transactions entered into after Aug. 5, 1997, see section 1028(e)(2) of Pub. L. 105–34, set out as a note under section 6111 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–465, title VII, §744(c), Dec. 8, 1994, 108 Stat. 5011 , provided that: "The amendments made by this section [amending this section] shall apply to items related to transactions occurring after the date of the enactment of this Act [Dec. 8, 1994]."

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–66, title XIII, §13236(e), Aug. 10, 1993, 107 Stat. 506 , provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1993."

Pub. L. 103–66, title XIII, §13251(b), Aug. 10, 1993, 107 Stat. 531 , provided that: "The amendment made by this section [amending this section] shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993."

Effective Date of 1990 Amendment

Pub. L. 101–508, title XI, §11312(c), Nov. 5, 1990, 104 Stat. 1388–455 , provided that: "The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Nov. 5, 1990]."

Effective Date

Section applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 461 of this title.

EXHIBIT 31

26 USC 6601: Interest on underpayment, nonpayment, or extensions of time for payment, of tax
Text contains those laws in effect on February 16, 2026

From Title 26-INTERNAL REVENUE CODE
Subtitle F-Procedure and Administration
CHAPTER 67-INTEREST
Subchapter A-Interest on Underpayments

Jump To:
Source Credit
Future Amendments
Miscellaneous
Amendments
Effective Date
Savings Provision

§6601. Interest on underpayment, nonpayment, or extensions of time for payment, of tax

(a) General rule

If any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at the underpayment rate established under section 6621 shall be paid for the period from such last date to the date paid.

(b) Last date prescribed for payment

For purposes of this section, the last date prescribed for payment of the tax shall be determined under chapter 62 with the application of the following rules:

(1) Extensions of time disregarded

The last date prescribed for payment shall be determined without regard to any extension of time for payment or any installment agreement entered into under section 6159.

(2) Jeopardy

The last date prescribed for payment shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy (as provided in chapter 70), prior to the last date otherwise prescribed for such payment.

(3) Accumulated earnings tax

In the case of the tax imposed by section 531 for any taxable year, the last date prescribed for payment shall be deemed to be the due date (without regard to extensions) for the return of tax imposed by subtitle A for such taxable year.

(4) Last date for payment not otherwise prescribed

In the case of taxes payable by stamp and in all other cases in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for tax arises (and in no event shall be later than the date notice and demand for the tax is made by the Secretary).

(c) Suspension of interest in certain income, estate, gift, and certain excise tax cases

In the case of a deficiency as defined in section 6211 (relating to income, estate, gift, and certain excise taxes), if a waiver of restrictions under section 6213(d) on the assessment of such deficiency has been filed, and if notice and demand by the Secretary for payment of such deficiency is not made within 30 days after the filing of such waiver, interest shall not be imposed on such deficiency for the period beginning immediately after such 30th day and ending with the date of notice and demand and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period.

(d) Income tax reduced by carryback or adjustment for certain unused deductions

(1) Net operating loss or capital loss carryback

If the amount of any tax imposed by subtitle A is reduced by reason of a carryback of a net operating loss or net capital loss, such reduction in tax shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which the net operating loss or net capital loss arises.

(2) Foreign tax credit carrybacks

If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this

section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.

(3) Certain credit carrybacks

(A) In general

If any credit allowed for any taxable year is increased by reason of a credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which the credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.

(B) Credit carryback defined

For purposes of this paragraph, the term "credit carryback" has the meaning given such term by section 6511(d)(4)(C).

(4) Filing date

For purposes of this subsection, the term "filing date" has the meaning given to such term by section 6611(f)(4)(A).

(e) Applicable rules

Except as otherwise provided in this title-

(1) Interest treated as tax

Interest prescribed under this section on any tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as taxes. Any reference to this title (except subchapter B of chapter 63, relating to deficiency procedures) to any tax imposed by this title shall be deemed also to refer to interest imposed by this section on such tax.

(2) Interest on penalties, additional amounts, or additions to the tax

(A) In general

Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax (other than an addition to tax imposed under section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68) only if such assessable penalty, additional amount, or addition to the tax is not paid within 21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000), and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

(B) Interest on certain additions to tax

Interest shall be imposed under this section with respect to any addition to tax imposed by section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68 for the period which-

(i) begins on the date on which the return of the tax with respect to which such addition to tax is imposed is required to be filed (including any extensions), and

(ii) ends on the date of payment of such addition to tax.

(3) Payments made within specified period after notice and demand

If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.

(f) Satisfaction by credits

If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to such overpayment. The preceding sentence shall not apply to the extent that section 6621(d) applies.

(g) Limitation on assessment and collection

Interest prescribed under this section on any tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be collected.

(h) Exception as to estimated tax

This section shall not apply to any failure to pay any estimated tax required to be paid by section 6654 or 6655.

(i) Exception as to Federal unemployment tax

This section shall not apply to any failure to make a payment of tax imposed by section 3301 for a calendar quarter or other period within a taxable year required under authority of section 6157.

(j) 2-percent rate on certain portion of estate tax extended under section 6166

(1) In general

If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, then in lieu of the annual rate provided by subsection (a)-

(A) interest on the 2-percent portion of such amount shall be paid at the rate of 2 percent, and

(B) interest on so much of such amount as exceeds the 2-percent portion shall be paid at a rate equal to 45 percent of the annual rate provided by subsection (a).

For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

(2) 2-percent portion

For purposes of this subsection, the term "2-percent portion" means the lesser of-

(A)(i) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the sum of $1,000,000 and the applicable exclusion amount in effect under section 2010(c), reduced by

(ii) the applicable credit amount in effect under section 2010(c), or

(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

(3) Inflation adjustment

In the case of estates of decedents dying in a calendar year after 1998, the $1,000,000 amount contained in paragraph (2)(A) shall be increased by an amount equal to-

(A) $1,000,000, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting "calendar year 1997" for "calendar year 2016" in subparagraph (A)(ii) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.

(4) Treatment of payments

If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 2-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 2-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 2-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166.

(k) No interest on certain adjustments

For provisions prohibiting interest on certain adjustments in tax, see section 6205(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 817 ; Pub. L. 85–866, title I, §§66(c), 83(a)(1), 84(a), title II, §206(e), Sept. 2, 1958, 72 Stat. 1658 , 1663, 1664, 1685; Pub. L. 87–61, title II, §203(c)(2), June 29, 1961, 75 Stat. 126 ; Pub. L. 87–834, §2(e)(3), Oct. 16, 1962, 76 Stat. 972 ; Pub. L. 88–571, §3(d), Sept. 2, 1964, 78 Stat. 858 ; Pub. L. 89–384, §1(f), Apr. 8, 1966, 80 Stat. 104 ; Pub. L. 90–225, §2(e), Dec. 27, 1967, 81 Stat. 731 ; Pub. L. 91–53, §2(e), Aug. 7, 1969, 83 Stat. 92 ; Pub. L. 91–172, title I, §101(j)(49), title V, §512(e)(3), Dec. 30, 1969, 83 Stat. 531 , 641; Pub. L. 92–178, title VI, §601(d)(3), Dec. 10, 1971, 85 Stat. 559 ; Pub. L. 93–406, title II, §1016(a)(17), Sept. 2, 1974, 88 Stat. 930 ; Pub. L. 93–625, §7(a)(2)(A), (b)(1), Jan. 3, 1975, 88 Stat. 2115 ; Pub. L. 94–452, §3(c)(3), Oct. 2, 1976, 90 Stat. 1514 ; Pub. L. 94–455, title XIII, §1307(d)(2)(H), title XVI, §1605(b)(10), title XIX, §§1906(a)(34), (b)(13)(A), title XX, §2004(b), title XXI, §2107(g)(2)(C), Oct. 4, 1976, 90 Stat. 1728 , 1755, 1829, 1834, 1867, 1904; Pub. L. 95–30, title II, §202(d)(4)(C), May 23, 1977, 91 Stat. 150 ; Pub. L. 95–628, §8(c)(2), Nov. 10, 1978, 92 Stat. 3632 ; Pub. L. 96–223, title I, §101(f)(7), Apr. 2, 1980, 94 Stat. 253 ; Pub. L. 97–248, title III, §§344(b)(1), 346(c)(2), Sept. 3, 1982, 96 Stat. 635 , 637; Pub. L. 98–76, title II, §231(b)(2)(D), Aug. 12, 1983, 97 Stat. 429 ; Pub. L. 98–369, div. A, title I, §158(a), title II, §211(b)(26), title IV, §412(b)(7), title VII, §714(n)(1), July 18, 1984, 98 Stat. 696 , 757, 792, 963; Pub. L. 99–514, title XIV, §1404(c)(3), title XV, §§1511(c)(11), 1512(a), 1564(a), Oct. 22, 1986, 100 Stat. 2714 , 2745, 2746, 2762; Pub. L. 100–203, title X, §10301(b)(5), Dec. 22, 1987, 101 Stat. 1330–429 ; Pub. L. 100–647, title I, §§1015(b)(2)(C), 1018(u)(42), title VI, §6234(b)(1), title VII, §7106(c)(5), Nov. 10, 1988, 102 Stat. 3569 , 3592, 3736, 3774; Pub. L. 101–239, title VII, §7721(c)(8), Dec. 19, 1989, 103 Stat. 2400 ; Pub. L. 101–508, title XI, §11801(c)(20)(B), Nov. 5, 1990, 104 Stat. 1388–528 ; Pub. L. 104–168, title III, §303(a), (b)(1), July 30, 1996, 110 Stat. 1458 ; Pub. L. 105–34, title V, §§501(e), 503(a), (c)(2), (3), title X, §1055(a), title XII, §1242(a), Aug. 5, 1997, 111 Stat. 846 , 852, 853, 944, 1029; Pub. L. 105–206, title III, §3301(b), July 22, 1998, 112 Stat. 741 ; Pub. L. 109–135, title IV, §409(a)(2), Dec. 21, 2005, 119 Stat. 2635 ; Pub. L. 114–74, title XI, §1101(f)(9), Nov. 2, 2015, 129 Stat. 638 ; Pub. L. 115–97, title I, §11002(d)(1)(JJ), Dec. 22, 2017, 131 Stat. 2060 ; Pub. L. 115–141, div. U, title IV, §401(b)(47), Mar. 23, 2018, 132 Stat. 1204 .)

Inflation Adjusted Items for Certain Years

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

EDITORIAL NOTES

AMENDMENTS

2018-Subsec. (b)(2) to (5). Pub. L. 115–141 redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which related to dates prescribed for installment payments.

2017-Subsec. (j)(3)(B). Pub. L. 115–97 substituted "for 'calendar year 2016' in subparagraph (A)(ii)" for "for 'calendar year 1992' in subparagraph (B)".

2015-Subsec. (c). Pub. L. 114–74 struck out at end "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

2005-Subsec. (d)(4). Pub. L. 109–135 substituted "6611(f)(4)(A)" for "6611(f)(3)(A)".

1998-Subsec. (f). Pub. L. 105–206 inserted at end "The preceding sentence shall not apply to the extent that section 6621(d) applies."

1997-Subsec. (c). Pub. L. 105–34, §1242(a), inserted at end "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

Subsec. (d)(2) to (4). Pub. L. 105–34, §1055(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (j). Pub. L. 105–34, §503(c)(3), substituted "2-percent" for "4-percent" in heading.

Subsec. (j)(1). Pub. L. 105–34, §503(a), reenacted par. heading without change and amended text generally. Prior to amendment, text read as follows: "If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, interest on the 4-percent portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid at the rate of 4 percent. For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section."

Subsec. (j)(2). Pub. L. 105–34, §503(a), amended heading and text generally. Prior to amendment, text read as follows: "For purposes of this subsection, the term '4-percent portion' means the lesser of-

"(A) $345,800 reduced by the amount of the credit allowable under section 2010(a); or

"(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166."

Subsec. (j)(3). Pub. L. 105–34, §501(e), added par. (3). Former par. (3) redesignated (4).

Subsec. (j)(4). Pub. L. 105–34, §503(c)(2), substituted "2-percent" for "4-percent" wherever appearing.

Pub. L. 105–34, §501(e), redesignated par. (3) as (4).

1996-Subsec. (e)(2)(A). Pub. L. 104–168, §303(b)(1), substituted "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)" for "10 days from the date of notice and demand therefor".

Subsec. (e)(3). Pub. L. 104–168, §303(a), substituted "specified period" for "10 days" in heading and amended text generally. Prior to amendment, text read as follows: "If notice and demand is made for payment of any amount, and if such amount is paid within 10 days after the date of such notice and demand interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

1990-Subsec. (b)(2). Pub. L. 101–508 struck out "or 6158(a)" after "6156(a)" in introductory provisions, struck out "or 6158(a), as the case may be" after "6156(a)" in subpar. (A), and struck out at end "For purposes of subparagraph (A), section 6158(a) shall be treated as providing that the date prescribed for payment of each installment shall not be later than the date prescribed for payment of the 1985 installment."

1989-Subsec. (e)(2). Pub. L. 101–239 substituted "section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68" for "section 6651(a)(1), 6653, 6659, 6660, or 6661" in subpars. (A) and (B).

1988-Subsec. (b)(1). Pub. L. 100–647, §6234(b)(1), inserted "or any installment agreement entered into under section 6159" after "time for payment".

Subsec. (b)(2). Pub. L. 100–647, §1018(u)(42), made technical correction to directory language of Pub. L. 99–514, §1404(c)(3), see 1986 Amendment note below.

Subsec. (e)(2)(A), (B). Pub. L. 100–647, §1015(b)(2)(C), substituted "6653, 6659" for "6659".

Subsec. (i). Pub. L. 100–647, §7106(c)(5), struck out "or 3321" after "3301".

1987-Subsec. (h). Pub. L. 100–203 substituted "section 6654 or 6655" for "section 6154 or 6654".

1986-Subsec. (a). Pub. L. 99–514, §1511(c)(11), substituted "the underpayment rate established under section 6621" for "an annual rate established under section 6621".

Subsec. (b)(2). Pub. L. 99–514, §1404(c)(3), as amended by Pub. L. 100–647, §1018(u)(42), substituted "6156(a) or 6158(a)" for "6152(a), 6156(a), or 6158(a)" in introductory provisions and "6156(b) or 6158(a)" for "6152(b), 6156(b), or 6158(a)" in subpar. (A).

Subsec. (b)(4), (5). Pub. L. 99–514, §1512(a), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 99–514, §1564(a), inserted "and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period".

1984-Subsec. (d)(2)(A). Pub. L. 98–369, §714(n)(1), made technical correction to directory language of Pub. L. 97–248, §346(c)(2)(B). See 1982 Amendment note below.

Subsec. (d)(3), (4). Pub. L. 98–369, §211(b)(26), redesignated par. (4) as (3) and struck out former par. (3) which had provided that if the amount of any tax imposed by subtitle A was reduced by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such reduction in tax would not affect the computation of interest under this section for the period ending with the last day of the last taxable year to which the loss described in section 815(d)(5)(A) was carried under section 812(b)(2).

Subsec. (e)(2). Pub. L. 98–369, §158(a), in amending par. (2) generally, inserted "(other than an addition to tax imposed under section 6651(a)(1), 6659, 6660, or 6661)", and added subpar. (B).

Subsec. (h). Pub. L. 98–369, §412(b)(7), amended subsec. (h) generally, substituting "any estimated tax required to be paid by section 6154 or 6654" for "estimated tax required by section 6153 or section 6154".

1983-Subsec. (i). Pub. L. 98–76 inserted "or 3321" after "3301".

1982-Subsec. (d)(1). Pub. L. 97–248, §346(c)(2)(A), substituted "the filing date for the taxable year" for "the last day of the taxable year".

Subsec. (d)(2)(A). Pub. L. 97–248, §346(c)(2)(B), as amended by Pub. L. 98–369, §346(c)(2)(B), substituted "the filing date for" for "the last day of" in two places.

Subsec. (d)(4). Pub. L. 97–248, §346(c)(2)(C), added par. (4).

Subsec. (e). Pub. L. 97–248, §344(b)(1), struck out par. (2) which had provided that no interest under this section was to be imposed on the interest provided by this section, and redesignated pars. (3) and (4) as (2) and (3), respectively.

1980-Subsec. (c). Pub. L. 96–223 substituted "certain excise tax cases" for "chapter 41, 42, 43, or 44 tax cases" in heading.

1978-Subsec. (d)(2). Pub. L. 95–628, §8(c)(2)(A), substituted in heading "Certain credit carrybacks" for "Investment credit carryback", designated existing provision as subpar. (A), and in subpar. (A) as so designated, inserted heading "In general" and in text extended the application of the provision to credit carrybacks, previously limited to investment credit carrybacks, included other credit carrybacks, and added subpar. (B).

Subsec. (d)(4), (5). Pub. L. 95–628, §8(c)(2)(B), struck out pars. (4) and (5) which provided for work incentive program credit carrybacks and new employee credit carrybacks, respectively.

1977-Subsec. (d)(5). Pub. L. 95–30 added par. (5).

1976-Subsec. (b)(2). Pub. L. 94–452 substituted ", 6156(a), or 6158(a)" for "or 6156(a)" and ", 6156(b), or 6158(a)" for "or 6156(b)" and inserted requirement that for purposes of subparagraph (A), section 6158(a) of this title shall be treated as providing that the date prescribed for payment of each installment shall not be later than the date prescribed for payment of the 1985 installment.

Subsec. (b)(4). Pub. L. 94–455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (c). Pub. L. 94–455, §§1307(d)(2)(H), 1605(b)(10), substituted in heading "chapter 41, 42" for "chapter 42" and "43, or 44" for "or 43".

Subsec. (d)(4). Pub. L. 94–455, §2107(g)(2)(C), inserted ", an investment credit carryback," after "net operating loss carryback".

Subsec. (h). Pub. L. 94–455, §1906(a)(34), struck out "(or section 59 of the Internal Revenue Code of 1939)".

Subsecs. (j), (k). Pub. L. 94–455, §2004(b), added subsec. (j) and redesignated former subsec. (j) as (k).

1975-Subsec. (a). Pub. L. 93–625, §7(a)(2)(A), substituted "an annual rate established under section 6621" for "the rate of 6 percent per annum".

Subsecs. (b) to (l). Pub. L. 93–625, §7(b)(1), struck out subsec. (b) relating to extensions of time for payment of estate tax, redesignated subsecs. (c) to (i) as (b) to (h), respectively, struck out subsec. (j) relating to extensions of time for payment of tax attributable to recoveries of foreign expropriation losses, and redesignated subsecs. (k) and (l) as (i) and (j), respectively.

1974-Subsec. (d). Pub. L. 93–406 inserted reference to chapter 43 in heading, and substituted "certain excise" for "chapter 42" in text.

1971-Subsec. (e)(4). Pub. L. 92–178 added par. (4).

1969-Subsec. (d). Pub. L. 91–172, §101(j)(49), inserted reference to chapter 42 both in subsec. heading and in text.

Subsec. (e)(1). Pub. L. 91–172, §512(e)(3)(A), (B), substituted "loss or capital loss carryback" for "loss carryback" in heading, and "net operating loss or net capital loss" for "net operating loss" wherever it appears in text.

Subsec. (e)(2). Pub. L. 91–172, §512(e)(3)(C), substituted "loss carryback or a capital loss carryback" for "loss carryback".

Subsecs. (k), (l). Pub. L. 91–53 added subsec. (k) and redesignated former subsec. (k) as (l).

1967-Subsec. (e)(2). Pub. L. 90–225 inserted ", or with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year," after "the investment credit carryback arises".

1966-Subsecs. (j), (k). Pub. L. 89–384 added subsec. (j) and redesignated former subsec. (j) as (k).

1964-Subsec. (e). Pub. L. 88–571 added par. (3) and inserted "or adjustment for certain unused deductions" in heading.

1962-Subsec. (e). Pub. L. 87–834 designated existing provisions as par. (1) and added par. (2).

1961-Subsec. (c)(2). Pub. L. 87–61 substituted "6152(a) or 6156(a)" for "6152(a)" in introductory provisions, and "6152(b) or 6156(b), as the case may be" for "6152(b)" in subpar. (A).

1958-Subsec. (b). Pub. L. 85–866, §§66(c), 206(e), inserted reference to section 6166, and substituted "if the time for payment of an amount of such tax is postponed or extended as provided by section 6163" for "if postponement of the payment of an amount of such tax is permitted by section 6163(a)".

Subsecs. (g) to (j). Pub. L. 85–866, §§83(a)(1), 84(a), added subsecs. (g) and (h) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

Statutory Notes and Related Subsidiaries

Effective Date of 2017 Amendment

Amendment by Pub. L. 115–97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115–97, set out as a note under section 1 of this title.

Effective Date of 2015 Amendment

Amendment by Pub. L. 114–74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, see section 1101(g) of Pub. L. 114–74, set out as an Effective Date note under section 6221 of this title.

Effective Date of 2005 Amendment

Amendment by Pub. L. 109–135 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 409(d) of Pub. L. 109–135, set out as a note under section 961 of this title.

Effective Date of 1998 Amendment

Pub. L. 105–206, title III, §3301(c), July 22, 1998, 112 Stat. 741 , as amended by Pub. L. 105–277, div. J, title IV, §4002(d), Oct. 21, 1998, 112 Stat. 2681–906 , provided that:

"(1) In general.-Except as provided under paragraph (2), the amendments made by this section [amending this section and section 6621 of this title] shall apply to interest for periods beginning after the date of the enactment of this Act [July 22, 1998].

"(2) Special rule.-Subject to any applicable statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments made by this section shall apply to interest for periods beginning before the date of the enactment of this Act if the taxpayer-

"(A) reasonably identifies and establishes periods of such tax overpayments and underpayments for which the zero rate applies; and

"(B) not later than December 31, 1999, requests the Secretary of the Treasury to apply section 6621(d) of the Internal Revenue Code of 1986, as added by subsection (a), to such periods."

Effective Date of 1997 Amendment

Amendment by section 501(e) of Pub. L. 105–34 applicable to estates of decedents dying, and gifts made, after Dec. 31, 1997, see section 501(f) of Pub. L. 105–34, set out as a note under section 2001 of this title.

Amendment by section 503(a), (c)(2), (3) of Pub. L. 105–34 applicable to estates of decedents dying after Dec. 31, 1997, with special rule in case of estate of any decedent dying before Jan. 1, 1998, with

respect to which there is an election under section 6166 of this title, see section 303(d) of Pub. L. 105–34, set out as a note under section 163 of this title.

Pub. L. 105–34, title X, §1055(c), Aug. 5, 1997, 111 Stat. 945 , provided that: "The amendments made by this section [amending this section and section 6611 of this title] shall apply to foreign tax credit carrybacks arising in taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997]."

Pub. L. 105–34, title XII, §1242(b), Aug. 5, 1997, 111 Stat. 1029 , provided that: "The amendment made by this section [amending this section] shall apply to adjustments with respect to partnership taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997]."

Effective Date of 1996 Amendment

Pub. L. 104–168, title III, §303(c), July 30, 1996, 110 Stat. 1458 , provided that: "The amendments made by this section [amending this section and section 6651 of this title] shall apply in the case of any notice and demand given after December 31, 1996."

Effective Date of 1989 Amendment

Amendment by Pub. L. 101–239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 of this title.

Effective Date of 1988 Amendment

Amendment by section 1015(b)(2)(C) of Pub. L. 100–647 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1988, see section 1015(b)(4) of Pub. L. 100–647, set out as a note under section 6013 of this title.

Amendment by section 1018(u)(42) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Amendment by section 6234(b)(1) of Pub. L. 100–647 applicable to agreements entered into after Nov. 10, 1988, see section 6234(c) of Pub. L. 100–647, set out as an Effective Date note under section 6159 of this title.

Amendment by section 7106(c)(5) of Pub. L. 100–647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100–647, set out as a note under section 3321 of this title.

Effective Date of 1987 Amendment

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as a note under section 585 of this title.

Effective Date of 1986 Amendment

Amendment by section 1404(c)(3) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99–514, set out as a note under section 643 of this title.

Amendment by section 1511(c)(11) of Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Pub. L. 99–514, title XV, §1512(b), Oct. 22, 1986, 100 Stat. 2746 , provided that: "The amendments made by this section [amending this section] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985."

Pub. L. 99–514, title XV, §1564(b), Oct. 22, 1986, 100 Stat. 2762 , provided that:

"(1) Effective date.-The amendment made by subsection (a) [amending this section] shall apply to interest accruing after December 31, 1982.

"(2) Statute of limitations.-If refund or credit of any amount resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by the operation of any law or rule of law (including res judicata), refund or credit of such amount (to the extent attributable to the application of the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefore [sic] is filed before the close of such 1-year period."

Effective Date of 1984 Amendment

Pub. L. 98–369, div. A, title I, §158(b), July 18, 1984, 98 Stat. 696 , provided that: "The amendment made by this section [amending this section] shall apply to interest accrued after the date of the enactment of this Act [July 18, 1984], except with respect to additions to tax for which notice and demand is made before such date."

Amendment by section 211(b)(26) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98–369, set out as an Effective Date note under section 801 of this title.

Amendment by section 412(b)(7) of Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as a note under section 6654 of this title.

Amendment by section 714(n)(1) of Pub. L. 98–369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 715 of Pub. L. 98–369, set out as a note under section 31 of this title.

Effective Date of 1983 Amendment

Amendment by Pub. L. 98–76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98–76, set out as an Effective Date note under section 3321 of this title.

Effective Date of 1982 Amendment

Amendment by section 344(b)(1) of Pub. L. 97–248 applicable to interest accruing after Dec. 31, 1982, see section 344(c) of Pub. L. 97–248, set out as an Effective Date note under section 6622 of this title.

Amendment by section 346(c)(2) of Pub. L. 97–248 applicable to interest accruing after the 30th day after Sept. 3, 1982, see section 346(d)(2) of Pub. L. 97–248, set out as a note under section 6611 of this title.

Effective Date of 1980 Amendment

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–628 applicable to carrybacks arising in taxable years beginning after Nov. 10, 1978, see section 8(d) of Pub. L. 95–628, set out as a note under section 6511 of this title.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95–30, set out as an Effective Date note under section 51 of this title.

Effective Date of 1976 Amendments

Amendment by section 2004(b) of Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94–455, set out as a note under section 6166 of this title.

Amendment by Pub. L. 94–452 effective Oct. 1, 1977, see section 3(e) of Pub. L. 94–452, set out as a note under section 6151 of this title.

Effective Date of 1975 Amendment

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

Effective Date of 1971 Amendment

Amendment by Pub. L. 92–178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92–178, set out as a note under section 381 of this title.

Effective Date of 1969 Amendment

Amendment by section 101(j)(49) of Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 512(e)(3) of Pub. L. 91–172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91–172, set out as an Effective Date of 1969 Amendment note under section 1212 of this title. Amendment by Pub. L. 91–53

applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91–53, set out as an Effective Date note under section 6157 of this title.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90–225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90–225, set out as a note under section 46 of this title.

Effective Date of 1966 Amendment

Amendment by Pub. L. 89–384 applicable with respect to amounts received after December 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of this title) sustained after December 31, 1958, see section 2 of Pub. L. 89–384, set out as an Effective Date note under section 1351 of this title.

Effective Date of 1964 Amendment

Amendment by Pub. L. 88–571 effective, with respect to amounts added to policyholders surplus accounts, for taxable years beginning after Dec. 31, 1958, see section 3(f) of Pub. L. 88–571, set out as a note under section 6501 of this title.

Effective Date of 1962 Amendment

Amendment by Pub. L. 87–834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87–834, set out as an Effective Date note under section 46 of this title.

Effective Date of 1961 Amendment

Amendment by Pub. L. 87–61 effective July 1, 1961, see section 208 of Pub. L. 87–61, set out as a note under section 4041 of this title.

Effective Date of 1958 Amendment

Amendment by sections 66(c) and 84(a) of Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

Pub. L. 85–866, title I, §83(d), Sept. 2, 1958, 72 Stat. 1664 , provided that: "The amendments made by subsections (a) [amending this section and section 3794 of I.R.C. 1939], (b) [amending section 6611 of this title and section 3771 of I.R.C. 1939], and (c) [amending section 6611 of this title] shall apply only in respect of overpayments credited after December 31, 1957."

For effective date of amendment by section 206(e) of Pub. L. 85–866, see section 206(f) of Pub. L. 85–866, set out as a note under section 6161 of this title.

Savings Provision

For provisions that nothing in amendment by Pub. L. 115–141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115–141, set out as a note under section 23 of this title.

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 45K of this title.

Administration of Penalties and Interest

Pub. L. 105–206, title III, §3801, July 22, 1998, 112 Stat. 782 , provided that: "The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study-

"(1) reviewing the administration and implementation by the Internal Revenue Service of the interest and penalty provisions of the Internal Revenue Code of 1986 (including the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989 [Pub. L. 101–239, see Tables for classification]); and

"(2) making any legislative and administrative recommendations the Committee or the Secretary deems appropriate to simplify penalty or interest administration and reduce taxpayer burden.

Such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 1 year after the date of the enactment of this Act [July 22, 1998]."

Interest Not Payable on Underpayments Created or Increased by Tax Reform Act of 1976

Pub. L. 95–30, title III, §305, May 23, 1977, 91 Stat. 152 , as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095 , provided that: "No interest shall be payable for any period before April 16, 1977 (March 16, 1977, in the case of a corporation), on any underpayment of a tax imposed by the Internal Revenue Code of 1986 [formerly I.R.C. 1954], to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1976 [Pub. L. 94–455]."

Interest on Underpayment

Pub. L. 91–172, title IX, §946(a), Dec. 30, 1969, 83 Stat. 729 , provided that in the case of any taxable year ending before Dec. 30, 1969, no interest on underpayment of taxes, to the extent that such underpayment was attributable to the amendments made by Pub. L. 91–172, was not to be assessed or collected for any period before the 90th day after Dec. 30, 1969.

Interest Attributable to Net Operating Loss Carryback for Certain Taxable Years Ending in 1954

Pub. L. 85–866, title I, §83(e), Sept. 2, 1958, 72 Stat. 1664 , provided that if by reason of the enactment of section 172(b)(1)(A) of this title, a deficiency resulted for the first taxable year preceding a taxable year ending after Dec. 31, 1953 but before Aug. 17, 1954 and an overpayment resulted in the second preceding taxable year, then no interest was payable for any portion of such deficiency for any period during which there existed a corresponding overpayment to which interest was not payable.

EXHIBIT 32

26 USC 6621: Determination of rate of interest
Text contains those laws in effect on February 16, 2026

From Title 26-INTERNAL REVENUE CODE
Subtitle F-Procedure and Administration
CHAPTER 67-INTEREST
Subchapter C-Determination of Interest Rate; Compounding of Interest

Jump To:
Source Credit
Miscellaneous
Amendments
Effective Date
Regulations

§6621. Determination of rate of interest

(a) General rule

(1) Overpayment rate

The overpayment rate established under this section shall be the sum of-
(A) the Federal short-term rate determined under subsection (b), plus
(B) 3 percentage points (2 percentage points in the case of a corporation).

To the extent that an overpayment of tax by a corporation for any taxable period (as defined in subsection (c)(3), applied by substituting "overpayment" for "underpayment") exceeds $10,000, subparagraph (B) shall be applied by substituting "0.5 percentage point" for "2 percentage points".

(2) Underpayment rate

The underpayment rate established under this section shall be the sum of-
(A) the Federal short-term rate determined under subsection (b), plus
(B) 3 percentage points.

(b) Federal short-term rate

For purposes of this section-

(1) General rule

The Secretary shall determine the Federal short-term rate for the first month in each calendar quarter.

(2) Period during which rate applies

(A) In general

Except as provided in subparagraph (B), the Federal short-term rate determined under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

(B) Special rule for individual estimated tax

In determining the addition to tax under section 6654 for failure to pay estimated tax for any taxable year, the Federal short-term rate which applies during the 3rd month following such taxable year shall also apply during the first 15 days of the 4th month following such taxable year.

(3) Federal short-term rate

The Federal short-term rate for any month shall be the Federal short-term rate determined during such month by the Secretary in accordance with section 1274(d). Any such rate shall be rounded to the nearest full percent (or, if a multiple of ½ of 1 percent, such rate shall be increased to the next highest full percent).

(c) Increase in underpayment rate for large corporate underpayments

(1) In general

For purposes of determining the amount of interest payable under section 6601 on any large corporate underpayment for periods after the applicable date, paragraph (2) of subsection (a) shall be applied by substituting "5 percentage points" for "3 percentage points".

(2) Applicable date

For purposes of this subsection-

(A) In general

The applicable date is the 30th day after the earlier of-

(i) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Independent Office of Appeals is sent, or

(ii) the date on which the deficiency notice under section 6212 is sent.

The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.

(B) Special rules

(i) Nondeficiency procedures

In the case of any underpayment of any tax imposed by this title to which the deficiency procedures do not apply, subparagraph (A) shall be applied by taking into account any letter or notice provided by the Secretary which notifies the taxpayer of the assessment or proposed assessment of the tax.

(ii) Exception where amounts paid in full

For purposes of subparagraph (A), a letter or notice shall be disregarded if, during the 30-day period beginning on the day on which it was sent, the taxpayer makes a payment equal to the amount shown as due in such letter or notice, as the case may be.

(iii) Exception for letters or notices involving small amounts

For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).

(3) Large corporate underpayment

For purposes of this subsection-

(A) In general

The term "large corporate underpayment" means any underpayment of a tax by a C corporation for any taxable period if the amount of such underpayment for such period exceeds $100,000.

(B) Taxable period

For purposes of subparagraph (A), the term "taxable period" means-

(i) in the case of any tax imposed by subtitle A, the taxable year, or

(ii) in the case of any other tax, the period to which the underpayment relates.

(d) Elimination of interest on overlapping periods of tax overpayments and underpayments

To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period.

(Added Pub. L. 93–625, §7(a)(1), Jan. 3, 1975, 88 Stat. 2114 ; amended Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 ; Pub. L. 96–167, §4(b), Dec. 29, 1979, 93 Stat. 1275 ; Pub. L. 97–34, title VII, §711(a)–(c), Aug. 13, 1981, 95 Stat. 340 ; Pub. L. 97–248, title III, §345(a), Sept. 3, 1982, 96 Stat. 636 ; Pub. L. 98–369, div. A, title I, §144(a), July 18, 1984, 98 Stat. 682 ; Pub. L. 99–514, title XV, §§1511(a), (c)(1), 1535(a), Oct. 22, 1986, 100 Stat. 2744 , 2750; Pub. L. 100–647, title I, §1015(d), Nov. 10, 1988, 102 Stat. 3569 ; Pub. L. 101–239, title VII, §7721(b), Dec. 19, 1989, 103 Stat. 2399 ; Pub. L. 101–508, title XI, §11341(a), Nov. 5, 1990, 104 Stat. 1388–470 ; Pub. L. 103–465, title VII, §713(a), Dec. 8, 1994, 108 Stat. 5001 ; Pub. L. 104–188, title I, §1702(c)(6), (7), Aug. 20, 1996, 110 Stat. 1870 ; Pub. L. 105–34, title XIV, §1463(a), title XVI, §1604(b)(1), Aug. 5, 1997, 111 Stat. 1057 , 1097; Pub. L. 105–206, title III, §§3301(a), 3302(a), July 22, 1998, 112 Stat. 741 ; Pub. L. 116–25, title I, §1001(b)(1)(E), July 1, 2019, 133 Stat. 985 .)

Editorial Notes

Amendments

2019-Subsec. (c)(2)(A)(i). Pub. L. 116–25 substituted "Internal Revenue Service Independent Office of Appeals" for "Internal Revenue Service Office of Appeals".

1998-Subsec. (a)(1)(B). Pub. L. 105–206, §3302(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "2 percentage points."

Subsec. (d). Pub. L. 105–206, §3301(a), added subsec. (d).

1997-Subsec. (a)(1). Pub. L. 105–34, §1604(b)(1), substituted "subsection (c)(3), applied by substituting 'overpayment' for 'underpayment')" for "subsection (c)(3))" in concluding provisions.

Subsec. (c)(2)(B)(iii). Pub. L. 105–34, §1463(a), added cl. (iii).

1996-Subsec. (c)(2)(A). Pub. L. 104–188, §1702(c)(6), inserted closing provisions "The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary."

Subsec. (c)(2)(B)(i). Pub. L. 104–188, §1702(c)(7), substituted "this title" for "this subtitle".

1994-Subsec. (a)(1). Pub. L. 103–465 inserted concluding provisions.

1990-Subsec. (c). Pub. L. 101–508 added subsec. (c).

1989-Subsec. (c). Pub. L. 101–239 repealed subsec. (c) which related to attribution of interest on substantial underpayments to tax motivated transactions.

1988-Subsec. (a)(1)(A), (2)(A). Pub. L. 100–647, §1015(d)(1), substituted "Federal short-term" for "short-term Federal".

Subsec. (b). Pub. L. 100–647, §1015(d)(2), substituted "Federal short-term" for "short-term Federal" in heading.

Subsec. (b)(1). Pub. L. 100–647, §1015(d)(1), substituted "Federal short-term" for "short-term Federal".

1986-Subsec. (a). Pub. L. 99–514, §1511(a), added subsec. (a) and struck out former subsec. (a) which read as follows: "The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

Subsec. (b). Pub. L. 99–514, §1511(a), added subsec. (b) relating to determination of Federal short-term rate and struck out former subsec. (b) which related to interest rate adjustments and establishment of adjusted rates.

Subsec. (c). Pub. L. 99–514, §1511(a), (c)(1), redesignated subsec. (d) as (c), in par. (1), struck out "annual" before "rate of interest" and substituted "the underpayment rate established under this section" for "the adjusted rate established under subsection (b)", and struck out former subsec. (c) definition of prime rate, which read as follows: "For purposes of subsection (b), the term 'adjusted prime rate charged by banks' means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System."

Subsec. (c)(3)(A)(v). Pub. L. 99–514, §1535(a), added cl. (v).

Subsec. (d). Pub. L. 99–514, §1511(c)(1)(A), redesignated subsec. (d) as (c).

1984-Subsec. (d). Pub. L. 98–369 added subsec. (d).

1982-Subsec. (b). Pub. L. 97–248 substituted provisions that if the adjusted prime rate charged by banks (rounded to the nearest full percent) during the 6-month period ending on September 30 of any calendar year, or during the 6-month period ending on March 31 of any calendar year, differs from the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate, and that any adjusted rate of interest established under paragraph (1) shall become effective on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and on July 1 of the same year in the case of an adjustment attributable to paragraph (1)(B), for provisions that the Secretary was to establish an adjusted rate of interest for the purpose of subsection (a) not later than October 15 of any year if the adjusted prime rate charged by banks during September of that year, rounded to the nearest full percent, was at least a full percentage point more or less than the interest rate which was then in effect, and that any such adjusted rate of interest would be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and would become effective on January 1 of the immediately succeeding year.

1981-Subsec. (b). Pub. L. 97–34, §711(a), struck out provision that an adjustment provided for under this subsection not be made prior to the expiration of 23 months following the date of any preceding adjustment under this subsection which changes the rate of interest.

Pub. L. 97–34, §711(c), substituted "January 1" for "February 1".

Subsec. (c). Pub. L. 97–34, §711(b), struck out "90 percent of" before "the average predominant prime rate".

1979-Subsec. (a). Pub. L. 96–167 substituted provisions setting the annual rate established under this section to be such adjusted rate as is established by the Secretary under subsec. (b) of this section for provision that the rate of interest under sections 6601(a), 6602, 6611(a), 6332(c)(1), and 7426(g) of this title, and under section 2411(a) of title 28 was to be 9 percent per annum, or such adjusted rate as was established by the Secretary under subsection (b).

1976-Subsecs. (a), (b). Pub. L. 94–455 struck out "or his delegate" after "Secretary".

Statutory Notes and Related Subsidiaries

Effective Date of 1998 Amendment

Amendment by section 3301(a) of Pub. L. 105–206 applicable to interest for periods beginning after July 22, 1998, and, subject to applicable statutes of limitation, to interest for periods beginning before July 22, 1998, if taxpayer reasonably identifies and establishes periods of overpayments and underpayments for which zero rate applies, and not later than Dec. 31, 1999, requests application of subsec. (d) of this section to such periods, see section 3301(c) of Pub. L. 105–206, set out as a note under section 6601 of this title.

Pub. L. 105–206, title III, §3302(b), July 22, 1998, 112 Stat. 742 , provided that: "The amendment made by this section [amending this section] shall apply to interest for the second and succeeding calendar quarters beginning after the date of the enactment of this Act [July 22, 1998]."

Effective Date of 1997 Amendment

Pub. L. 105–34, title XIV, §1463(b), Aug. 5, 1997, 111 Stat. 1058 , provided that: "The amendment made by subsection (a) [amending this section] shall apply for purposes of determining interest for periods after December 31, 1997."

Amendment by section 1604(b)(1) of Pub. L. 105–34 effective as if included in the sections of the Uruguay Round Agreements Act, Pub. L. 103–465, to which it relates, see section 1604(b)(4) of Pub. L. 105–34, set out as a note under section 412 of this title.

Effective Date of 1996 Amendment

Amendment by Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

Effective Date of 1994 Amendment

Pub. L. 103–465, title VII, §713(b), Dec. 8, 1994, 108 Stat. 5002 , provided that: "The amendment made by this section [amending this section] shall apply for purposes of determining interest for periods after December 31, 1994."

Effective Date of 1990 Amendment

Pub. L. 101–508, title XI, §11341(b), Nov. 5, 1990, 104 Stat. 1388–471 , provided that: "The amendment made by subsection (a) [amending this section] shall apply for purposes of determining interest for periods after December 31, 1990."

Effective Date of 1989 Amendment

Amendment by Pub. L. 101–239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 of this title.

Effective Date of 1988 Amendment

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Effective Date of 1986 Amendment

Amendment by section 1511(a), (c)(1) of Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Pub. L. 99–514, title XV, §1535(b), Oct. 22, 1986, 100 Stat. 2750 , provided that: "The amendment made by subsection (a) [amending this section] shall apply to interest accruing after December 31, 1984; except that such amendment shall not apply in the case of any underpayment with respect to which there was a final court decision before the date of the enactment of this Act [Oct. 22, 1986]."

Effective Date of 1984 Amendment

Pub. L. 98–369, div. A, title I, §144(c), July 18, 1984, 98 Stat. 684 , provided that: "The amendments made by this section [amending this section and section 6214 of this title] shall apply with respect to interest accruing after December 31, 1984."

Effective Date of 1982 Amendment

Pub. L. 97–248, title III, §345(b), Sept. 3, 1982, 96 Stat. 636 , as amended by Pub. L. 98–369, div. A, title VII, §714(m), July 18, 1984, 98 Stat. 963 , provided that: "The amendment made by this section [amending this section] shall apply to adjustments taking effect on or after January 1, 1983."

Effective Date of 1981 Amendment

Pub. L. 97–34, title VII, §711(d), Aug. 13, 1981, 95 Stat. 340 , provided that:

"(1) For subsections (a) and (b).-The amendments made by subsections (a) and (b) [amending this section] shall apply to adjustments made after the date of the enactment of this Act [Aug. 13, 1981].

"(2) FOR SUBSECTION (c).—The amendment made by subsection (c) [amending this section] shall apply to adjustments made for periods after 1982."

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–167, §4(c)(2), Dec. 29, 1979, 93 Stat. 1276 , provided that: "The amendment made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 29, 1979]."

EFFECTIVE DATE

Pub. L. 93–625, §7(e), Jan. 3, 1975, 88 Stat. 2116 , provided that: "The amendments made by this section [enacting this section and amending sections 514, 6163, 6166, 6167, 6332, 6504, 6601, 6602, 6611, 6654, 6655, and 7426 of this title and section 2411 of Title 28, Judiciary and Judicial Procedure] shall take effect on July 1, 1975, and apply to amounts outstanding on such date or arising thereafter."

REGULATIONS

Pub. L. 99–514, title XV, §1511(b), Oct. 22, 1986, 100 Stat. 2744 , provided that: "The Secretary of the Treasury or his delegate may issue regulations to coordinate section 6621 of the Internal Revenue Code of 1954 [now 1986] (as amended by this section) with section 6601(f) of such Code. Such regulations shall not apply to any period after the date 3 years after the date of the enactment of this Act [Oct. 22, 1986]."

EXHIBIT 33

26 USC 6622: Interest compounded daily
Text contains those laws in effect on February 16, 2026

From Title 26-INTERNAL REVENUE CODE
Subtitle F-Procedure and Administration
CHAPTER 67-INTEREST
Subchapter C-Determination of Interest Rate; Compounding of Interest

Jump To:
Source Credit
Miscellaneous
Effective Date

§6622. Interest compounded daily

(a) General rule

In computing the amount of any interest required to be paid under this title or sections 1961(c)(1) or 2411 of title 28, United States Code, by the Secretary or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

(b) Exception for penalty for failure to file estimated tax

Subsection (a) shall not apply for purposes of computing the amount of any addition to tax under section 6654 or 6655.

(Added Pub. L. 97–248, title III, §344(a), Sept. 3, 1982, 96 Stat. 635 .)

Statutory Notes and Related Subsidiaries

Effective Date

Pub. L. 97–248, title III, §344(c), Sept. 3, 1982, 96 Stat. 636 , provided that: "The amendments made by this section [enacting this section and amending section 6601 of this title] shall apply to interest accruing after December 31, 1982."

EXHIBIT 34

26 USC 6651: Failure to file tax return or to pay tax
Text contains those laws in effect on February 16, 2026

From Title 26-INTERNAL REVENUE CODE
Subtitle F-Procedure and Administration
CHAPTER 68-ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES
Subchapter A-Additions to the Tax and Additional Amounts
PART I-GENERAL PROVISIONS

Jump To:
Source Credit
Future Amendments
Miscellaneous
Amendments
Effective Date

§6651. Failure to file tax return or to pay tax

(a) Addition to the tax

In case of failure-

(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

(2) to pay the amount shown as tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or

(3) to pay any amount in respect of any tax required to be shown on a return specified in paragraph (1) which is not so shown (including an assessment made pursuant to section 6213(b)) within 21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of $435 or 100 percent of the amount required to be shown as tax on such return.

(b) Penalty imposed on net amount due

For purposes of-

(1) subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return,

(2) subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of any credit against the tax which may be claimed on the return, and

(3) subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

(c) Limitations and special rule

(1) Additions under more than one paragraph

With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an

addition to tax applies under both paragraphs (1) and (2). If any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.

(2) Amount of tax shown more than amount required to be shown

If the amount required to be shown as tax on a return is less than the amount shown as tax on such return, subsections (a)(2) and (b)(2) shall be applied by substituting such lower amount.

(d) Increase in penalty for failure to pay tax in certain cases

(1) In general

In the case of each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraphs (2) and (3) of subsection (a) shall be applied by substituting "1 percent" for "0.5 percent" each place it appears.

(2) Description

For purposes of paragraph (1), the day described in this paragraph is the earlier of-

(A) the day 10 days after the date on which notice is given under section 6331(d), or

(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a).

(e) Exception for estimated tax

This section shall not apply to any failure to pay any estimated tax required to be paid by section 6654 or 6655.

(f) Increase in penalty for fraudulent failure to file

If any failure to file any return is fraudulent, paragraph (1) of subsection (a) shall be applied-

(1) by substituting "15 percent" for "5 percent" each place it appears, and

(2) by substituting "75 percent" for "25 percent".

(g) Treatment of returns prepared by Secretary under section 6020(b)

In the case of any return made by the Secretary under section 6020(b)-

(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).

(h) Limitation on penalty on individual's failure to pay for months during period of installment agreement

In the case of an individual who files a return of tax on or before the due date for the return (including extensions), paragraphs (2) and (3) of subsection (a) shall each be applied by substituting "0.25" for "0.5" each place it appears for purposes of determining the addition to tax for any month during which an installment agreement under section 6159 is in effect for the payment of such tax.

(i) Application to imputed underpayment

For purposes of this section, any failure to comply with section 6226(b)(4)(A)(ii) shall be treated as a failure to pay the amount described in subclause (II) thereof and such amount shall be treated for purposes of this section as an amount shown as tax on a return specified in subsection (a)(1).

(j) Adjustment for inflation

(1) In general

In the case of any return required to be filed in a calendar year beginning after 2020, the $435 dollar amount under subsection (a) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year determined by substituting "calendar year 2019" for "calendar year 2016" in subparagraph (A)(ii) thereof.

(2) Rounding

If any amount adjusted under paragraph (1) is not a multiple of $5, such amount shall be rounded to the next lowest multiple of $5.

(Aug. 16, 1954, ch. 736, 68A Stat. 821 ; Pub. L. 90–364, title I, §103(e)(4), June 28, 1968, 82 Stat. 264 ; Pub. L. 91–172, title IX, §943(a), Dec. 30, 1969, 83 Stat. 727 ; Pub. L. 92–9, §3(j)(1), Apr. 1, 1971, 85 Stat. 22 ; Pub. L. 94–455, title XIX, §1904(b)(10)(A)(v), Oct. 4, 1976, 90 Stat. 1817 ; Pub. L. 97–248, title III, §318(a), (b), Sept. 3, 1982, 96 Stat. 610 ; Pub. L. 98–369, div. A, title IV, §412(b)(8), July 18, 1984, 98 Stat. 792 ; Pub. L. 99–514, title XV, §1502(a), (b), Oct. 22, 1986, 100 Stat. 2741 ; Pub. L. 100–203, title X, §10301(b)(6), Dec. 22, 1987, 101 Stat. 1330–429 ; Pub. L. 101–239, title VII, §7741(a), Dec. 19, 1989, 103 Stat. 2404 ; Pub. L. 104–168, title III, §303(b)(2), title XIII, §1301(a), July 30, 1996, 110 Stat. 1458 , 1475; Pub. L. 105–206, title III, §3303(a), July 22, 1998, 112 Stat. 742 ; Pub. L. 110–245, title III, §303(a), June 17, 2008, 122 Stat. 1649 ; Pub. L. 113–295, div. B, title II, §208(a), Dec. 19, 2014, 128 Stat. 4072 ; Pub. L. 114–125, title IX, §921(a), (b), Feb. 24, 2016, 130 Stat. 281 ; Pub. L. 115–97, title I, §11002(d)(1)(KK), Dec. 22, 2017, 131 Stat. 2060 ; Pub. L. 115–141, div. U, title II, §206(n)(1), title IV, §401(a)(299)(A), Mar. 23, 2018, 132

Stat. 1181, 1198; Pub. L. 116–25, title II, §2201(a), (b), July 1, 2019, 133 Stat. 1017; Pub. L. 116–94, div. Q, title IV, §402(a), (b), Dec. 20, 2019, 133 Stat. 3179 .)

Inflation Adjusted Items for Certain Years

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

Editorial Notes

Amendments

2019-Subsec. (a). Pub. L. 116–94, §402(a), substituted "$435" for "$330" in concluding provisions.
Pub. L. 116–25, §3201(a), substituted "$330" for "$205" in concluding provisions.
Subsec. (j)(1). Pub. L. 116–94, §402(b), substituted "$435" for "$330".
Pub. L. 116–25, §3201(b), substituted "2020" for "2014", "$330" for "$205", and "2019" for "2013".
2018-Subsec. (i). Pub. L. 115–141, §206(n)(1), added subsec. (i). Former subsec. (i) redesignated (j).
Subsec. (j). Pub. L. 115–141, §401(a)(299)(A), which directed amendment of subsec. (i) by inserting "an amount equal to" after "increased by" and "for the calendar year" after "section 1(f)(3)", was executed by making the insertions in subsec. (j) to reflect the probable intent of Congress and the redesignation of subsec. (i) as (j) by Pub. L. 115–141, §206(n)(1), effective as if included in Pub. L. 114–74. See Amendment and Effective Date of 2018 Amendment notes below.
Pub. L. 115–141, §206(n)(1), redesignated subsec. (i) as (j).
2017-Subsec. (i)(1). Pub. L. 115–97 substituted "for 'calendar year 2016' in subparagraph (A)(ii)" for "for 'calendar year 1992' in subparagraph (B)".
2016-Subsec. (a). Pub. L. 114–125, §921(a), substituted "$205" for "$135" in concluding provisions.
Subsec. (i)(1). Pub. L. 114–125, §921(b), substituted "$205" for "$135".
2014-Subsec. (i). Pub. L. 113–295 added subsec. (i).
2008-Subsec. (a). Pub. L. 110–245 substituted "$135" for "$100" in concluding provisions.
1998-Subsec. (h). Pub. L. 105–206 added subsec. (h).
1996-Subsec. (a)(3). Pub. L. 104–168, §303(b)(2), substituted "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)" for "10 days of the date of the notice and demand therefor".
Subsec. (g). Pub. L. 104–168, §1301(a), added subsec. (g).
1989-Subsec. (f). Pub. L. 101–239 added subsec. (f).
1987-Subsec. (e). Pub. L. 100–203 substituted "section 6654 or 6655" for "section 6154 or 6654".
1986-Subsec. (c)(1). Pub. L. 99–514, §1502(b), amended par. (1) generally, striking out the designation "(A)" before "With respect to", inserting "(or fraction thereof)", and striking out subpar. (B) which read as follows: "With respect to any return, the maximum amount of the addition permitted under paragraph (3) of subsection (a) shall be reduced by the amount of the addition under paragraph (1) of subsection (a) (determined without regard to the last sentence of such subsection) which is attributable to the tax for which the notice and demand is made and which is not paid within 10 days of notice and demand."
Subsecs. (d), (e). Pub. L. 99–514, §1502(a), added subsec. (d) and redesignated former subsec. (d) as (e).
1984-Subsec. (d). Pub. L. 98–369 in amending subsec. (d) generally, substituted in heading "estimated tax" for "declarations of estimated tax", struck out provisions making section inapplicable to any failure to file a declaration of estimated tax required by section 6015 or to any failure to pay any estimated tax required to be paid by section 6153, and made section inapplicable to any failure to pay any estimated tax required to be paid by section 6654.
1982-Subsec. (a). Pub. L. 97–248, §318(a), inserted provision that, in the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under par. (1) shall not be less than the lesser of $100 or 100 percent of the amount required to be shown as tax on such return.
Subsec. (c)(1)(A). Pub. L. 97–248, §318(b)(1), inserted provision that in any case described in last sentence of subsec. (a), the amount of the addition under par. (1) of subsec. (a) shall not be reduced under first sentence of this subpar. below the amount provided in such last sentence.
Subsec. (c)(1)(B). Pub. L. 97–248, §318(b)(2), inserted "(determined without regard to the last sentence of such subsection)" after "paragraph (1) of subsection (a)".
1976-Subsec. (e). Pub. L. 94–455 struck out subsec. (e) which related to certain interest equalization tax returns.
1971-Subsec. (e). Pub. L. 92–9 added subsec. (e).

1969-Subsec. (a). Pub. L. 91–172 designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (b). Pub. L. 91–172 designated existing provisions as par. (1) and added pars. (2) and (3).

Subsecs. (c), (d). Pub. L. 91–172 added subsec. (c), redesignated former subsec. (c) as (d) and struck out reference to section 6016 of this title and provided that this section would not be applicable for failure to pay any estimated tax required under section 6153 or 6154 of this title.

1968-Subsec. (c). Pub. L. 90–364 struck out reference to section 6016.

Statutory Notes and Related Subsidiaries

Effective Date of 2019 Amendment

Pub. L. 116–94, div. O, title IV, §402(c), Dec. 20, 2019, 133 Stat. 3180 , provided that: "The amendments made by this section [amending this section] shall apply to returns the due date for which (including extensions) is after December 31, 2019."

Pub. L. 116–25, title III, §3201(c), July 1, 2019, 133 Stat. 1017 , provided that: "The amendments made by this section [amending this section] shall apply to returns required to be filed after December 31, 2019."

Effective Date of 2018 Amendment

Amendment by section 206(n)(1) of Pub. L. 115–141 effective as if included in section 1101 of Pub. L. 114–74, see section 207 of Pub. L. 115–141, set out as a note under section 6031 of this title.

Effective Date of 2017 Amendment

Amendment by Pub. L. 115–97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115–97, set out as a note under section 1 of this title.

Effective Date of 2016 Amendment

Pub. L. 114–125, title IX, §921(c), Feb. 24, 2016, 130 Stat. 281 , provided that: "The amendments made by this section [amending this section] shall apply to returns required to be filed in calendar years after 2015."

Effective Date of 2014 Amendment

Pub. L. 113–295, div. B, title II, §208(h), Dec. 19, 2014, 128 Stat. 4074 , as amended by Pub. L. 115–141, div. U, title I, §105(a), Mar. 23, 2018, 132 Stat. 1170 , provided that:

"(1) In general.-Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 6652, 6695, 6698, 6699, 6721, and 6722 of this title] shall apply to returns required to be filed, and statements required to be furnished, after December 31, 2014.

"(2) Subsection (c).-The amendment made by subsection (c) [amending section 6695 of this title] shall apply to returns or claims for refund filed after December 31, 2014."

[Pub. L. 115–141, div. U, title I, §105(b), Mar. 23, 2018, 132 Stat. 1170 , provided that: "The amendments made by this section [amending section 208(h) of div. B of Pub. L. 113–295, set out above] shall take effect as if included in section 208 of the Stephen Beck, Jr., ABLE Act of 2014 [div. B of Pub. L. 113–295]."]

Effective Date of 2008 Amendment

Pub. L. 110–245, title III, §303(b), June 17, 2008, 122 Stat. 1649 , provided that: "The amendment made by this section [amending this section] shall apply to returns required to be filed after December 31, 2008."

Effective Date of 1998 Amendment

Pub. L. 105–206, title III, §3303(b), July 22, 1998, 112 Stat. 742 , provided that: "The amendment made by this section [amending this section] shall apply for purposes of determining additions to the tax for months beginning after December 31, 1999."

Effective Date of 1996 Amendment

Amendment by section 303(b)(2) of Pub. L. 104–168 applicable in case of any notice and demand given after Dec. 31, 1996, see section 303(c) of Pub. L. 104–168, set out as a note under section 6601 of this title.

Pub. L. 104–168, title XIII, §1301(b), July 30, 1996, 110 Stat. 1475 , provided that: "The amendment made by subsection (a) [amending this section] shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act [July 30, 1996]."

Effective Date of 1989 Amendment

Pub. L. 101–239, title VII, §7741(b), Dec. 19, 1989, 103 Stat. 2405 , provided that: "The amendment made by subsection (a) [amending this section] shall apply in the case of failures to file returns the due date for which (determined without regard to extensions) is after December 31, 1989."

Effective Date of 1987 Amendment

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as a note under section 585 of this title.

Effective Date of 1986 Amendment

Pub. L. 99–514, title XV, §1502(c), Oct. 22, 1986, 100 Stat. 2741 , provided that:

"(1) Subsection (a).-The amendments made by subsection (a) [amending this section] shall apply-

"(A) to failures to pay which begin after December 31, 1986, and

"(B) to failures to pay which begin on or before December 31, 1986, if after December 31, 1986-

"(i) notice (or renotice) under section 6331(d) of the Internal Revenue Code of 1954 [now 1986] is given with respect to such failure, or

"(ii) notice and demand for immediate payment of the underpayment is made under the last sentence of section 6331(a) of such Code.

In the case of a failure to pay described in subparagraph (B), paragraph (2) of section 6651(d) of such Code (as added by subsection (a)) shall be applied by taking into account the first notice (or renotice) after December 31, 1986.

"(2) Subsection (b).-The amendment made by subsection (b) [amending this section] shall apply to amounts assessed after December 31, 1986, with respect to failures to pay which begin before, on, or after such date."

Effective Date of 1984 Amendment

Amendment by Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as a note under section 6654 of this title.

Effective Date of 1982 Amendment

Pub. L. 97–248, title III, §318(c), Sept. 3, 1982, 96 Stat. 610 , provided that: "The amendments made by this section [amending this section] shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982."

Effective Date of 1971 Amendment

Pub. L. 92–9, §3(j)(3), Apr. 1, 1971, 85 Stat. 22 , provided that: "The amendments made by this subsection [amending this section and section 6680 of this title] shall apply with respect to returns required to be filed on or after the date of the enactment of this Act [Apr. 1, 1971]."

Effective Date of 1969 Amendment

Pub. L. 91–172, title IX, §943(d), Dec. 30, 1969, 83 Stat. 729 , provided that: "The amendments made by subsections (a) [amending this section] and (c) [amending sections 3121, 5684, and 6653 of this title] shall apply with respect to returns the date prescribed by law (without regard to any extension of time) for filing of which is after December 31, 1969, and with respect to notices and demands for payment of tax made after December 31, 1969. The amendment made by subsection (b) [amending section 6656 of this title] shall apply with respect to deposits the time for making of which is after December 31, 1969."

Effective Date of 1968 Amendment

Amendment by Pub. L. 90–364 applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, see section 103(f) of Pub. L. 90–364, set out as a note under section 243 of this title.

Illegal Tax Protester Designation

Pub. L. 105–206, title III, §3707, July 22, 1998, 112 Stat. 778 , provided that:

"(a) Prohibition.-The officers and employees of the Internal Revenue Service-

"(1) shall not designate taxpayers as illegal tax protesters (or any similar designation); and

"(2) in the case of any such designation made on or before the date of the enactment of this Act [July 22, 1998]-

"(A) shall remove such designation from the individual master file; and

"(B) shall disregard any such designation not located in the individual master file.

"(b) DESIGNATION OF NONFILERS ALLOWED.-An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

"(c) EFFECTIVE DATE.-The provisions of this section shall take effect on the date of the enactment of this Act [July 22, 1998], except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999."

Exhibit 35 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 36 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 37 Slipsheet

(Subject to Motion to Seal and Protective Order)

EXHIBIT 38

PDADV_004224-PDADV_004225

Pat Daugherty

From: Jim Dondero
Sent: Tuesday, September 27, 2011 5:54 PM
To: Pat Daugherty
Cc: Patrick Boyce
Subject: Re: What do you stand for? This retrade is unfair and unjust.

Its not a retrade, we were clarifying a general understanding. You will trust or you will leave; you will get no agreement in writing. You will stop pushing and wasting my time. You will contribute and be rewarded and when u feel unfairly treated you can go elsewhere but I won't deal with this much distraction, disrespect or disruption.

From: Pat Daugherty
Sent: Tuesday, September 27, 2011 02:04 PM
To: Jim Dondero
Subject: RE: What do you stand for? This retrade is unfair and unjust.

You are the one who told me to "f@ck myself", not the other way around. For the record, the agreement always expressly noted that I would have to be employed at Highland in order to get any payment of bonus (as has always been the case). As for Tunstall, we had already negotiated that agreement which clearly states the nature of my interest and your interest. The nature of the Restoration economic interest will be as agreed subject to investor approval as they are going to have their own views of how my, yours and the teams comp should be structured. I have never tried to skim you and I am not trying to now. That said, it is reasonable to get the nature of my compensation in writing so that everyone is clear. Every other Company in the universe commits their economic relationships with their managers to writing so that there can be no confusion down the road. To insist that I do otherwise is flat out wrong and you know it.

If you don't want me to give a damn about you personally then I guess I'll do my best to comply. That said, I have been by your side thru a whole lot of sh@t and it is so refreshing to get your boot up my a$$ now that you are back on your feet. I'm glad to see you are back to the point where you can tell those closest to you to "f@ck themselves".

Patrick H. Daugherty, Esq.
Partner, Head of Distressed, Special Situations and Private Equity
Highland Capital Management, L.P.
13455 Noel Road, Suite 800
Dallas, TX 75240
972-628-4100 (phone)
972-628-4147 (fax)
pdaugherty@hcmlp.com

From: Jim Dondero
Sent: Tuesday, September 27, 2011 1:27 PM
To: Pat Daugherty
Cc: Patrick Boyce
Subject: Re: What do you stand for? This retrade is unfair and unjust.

Dondero
EXHIBIT NO. 160
M. FOLKS

Cause No DC-12-04005
Highland Parties' Trial Exhibit
160

DAUGHERTY 001349

I won't take you speaking with me like that. "Big brother u never wanted" doesn't allow u to be that disrespectful. I'm not willing to make that indicative letter a contract. There are things that need to be corrected such as bonus amounts of 750k feb aug need to both be described as retention, in-good-standing to receive. 25% interest in funstall and RCP need to be described as LP interests not a fee skim. Re REIT you will be treated fairly re a transaction that may or may not happen and if the anticipated deal occurs as expected you can expect approx 15% but its too lose to define and you will have to trust me. You have been treated more than fair in a value proposition that is always shift. If you believe I have been untrustworthy you should move on.
Re my personal life, its not relevant except to say I will tolerate the individual, passions and peculiarities, to a point. Beyond that point it becomes too unpleasant and I'd rather start over alone. You need to stop pushing me.

From: Pat Daugherty
Sent: Tuesday, September 27, 2011 09:48 AM
To: Jim Dondero
Subject: What do you stand for? This retrade is unfair and unjust.

Patrick H. Daugherty, Esq.
Partner, Head of Distressed, Special Situations and Private Equity
Highland Capital Management, L.P.
13455 Noel Road, Suite 800
Dallas, TX 75240
972-628-4100 (phone)
972-628-4147 (fax)
pdaugherty@hcmlp.com

EXHIBIT 39

PDADV_000002-PDADV_000007

HIGHLAND CAPITAL
Management, L.P.

Tax Discussion

March 6, 2009

Objectives

- Provide overview of tax refund estimate calculation
- Describe the next steps that must be taken by Highland and you to obtain the tax refund
- Answer your questions – please hold questions until the end of presentation to ensure we are able to cover all the intended material

Tax Refund Estimate

1. Estimate 2008 loss for Partnership:
- Estimate based on proposed tax strategies

2. Loss Allocation to Partners per Partnership Agreement:
- Allocated portion of 2008 estimated loss to each partner based on terms in Partnership Agreement
  - Based on K-1 income from 2007 and followed by earlier years until loss is completely allocated

3. Estimate of 2008 HCMLP Loss Permitted by IRS:
- Will not exceed loss allocation per partnership agreement
- Will likely be further limited to "At-Risk Basis" – excess loss remainder will be suspended, but can be used towards future partnership income (no time limit)
- Using appropriate basis offset 2008 income first. Excess may create an Net Operating Loss (NOL) that can be then be carried back to 2006 and 2007. Any unused NOL can be carried forward 20 years.

4. Refund Calculation
- 27% effective tax rate utilized on the estimated loss to determine tax refund estimate

Tax Refund Estimate (cont'd)

- How is partner capital calculated?
  - Book basis vs. Tax Basis vs. GAAP Basis
- Can the loss exceed my tax basis in the Firm?
  - Possibly– if you personally guarantee debt of the firm you can claim additional losses up to the amount of debt allocated to you
  - The debt is nonrecourse to you if you do not personally guarantee it
- Why was 27% used as the effective tax rate?
- Factors affecting refund estimate
  - Personal circumstances (itemized deductions, AMT situation, character of HCMLP income)
  - Willingness to personally guarantee firm debt
- Factors affecting timing of refund
  - It is likely the refund related to 2008 income should be received within 6-10 weeks of filing
  - IRS is required to act on the 2006 and 2007 refund claims within 90 days

Tax Refund Estimate (cont'd)

- Can the IRS claw back the refund?
  - Yes, if the return if audited and the outcome is negative
  - Timing?

Next Steps

- Highland will provide by March 31, 2009:
  - Your share of the estimated 2008 Profit & Loss
  - Tax capital amount according to HCM records
  - Estimated debt allocation
  - Examples of filing disclosures that Jim and Mark will utilize
- Potential actions by you to facilitate the refund:
  - Request extension for 2008 return now
  - Prepare 2008 return – file early and then later correct with final numbers (prior to September 15)
  - Claim 2008 tax year loss followed by 2006 and 2007 as eligible
- Call with Deloitte tax professionals late next week to answer your questions and share information

EXHIBIT 40

PDADV_018494-PDADV_018494

From: **Jim Dondero** JDondero@hcmlp.com
Subject: Separation Agreements
Date: October 27, 2011 at 4:49 PM
To: phdaugherty@gmail.com

Pat,

Please see the attached documents for your review and execution, which supersede the document package previously provided to you. Please note that none of the attached documents will be effective until accepted and countersigned by the applicable counterparties.

We are available Friday to discuss any questions you have on the documents.

DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.

Cornerstone_Daugherty Consulting and Release...

Cornerstone_Daugherty Separation and Resignation Lett...

Sierra Verde LLC_ Highland Capital_Member Consent re_...

Separation Agreement Pat Daugherty 10272011.pdf

EXHIBIT 41

PDADV_018476-PDADV_018493

October 27, 2011

Mr. Patrick Daugherty
[redacted]

Dear Pat:

This letter confirms our discussions with you concerning your resignation from your employment with Highland Capital Management, L.P. (hereinafter referred to as "Highland Capital"); and Highland Capital's offer and, by your signature, your acceptance of this proposed General Release and Separation Agreement (this "Agreement") on the terms set forth below. On behalf of Highland Capital, I want to wish you success in your future endeavors.

1. Voluntary Resignation. You hereby voluntarily resign from your position as Partner and from any other positions for Highland Capital Management, L.P. ("Highland Capital") and its affiliates effective as of the close of business on October 31, 2011 ("Separation Date"). Your last day of service as an active employee and Partner will be October 31, 2011. In order to memorialize your resignation as a Partner and to transfer your Interest in the Partnership back to the Partnership, concurrently with the execution hereof you shall execute the Assignment of Interest attached hereto as Appendix B and shall cause your spouse to execute the Spouse's Agreement constituting a part thereof.

2. Salary and Benefits. You have received or will receive regardless of whether you execute this Agreement, the following payments and benefits related to your employment with Highland Capital:

(a) Payment of your regular base salary through the Separation Date;

(b) Payment of accrued and unused vacation leave benefits as of October 31, 2011;

(c) Payment of your monthly medical and dental insurance premiums through October 31, 2011 in accordance with Highland Capital's existing policies; and

(d) Present or future payment or other entitlement to any benefits to which you have vested entitlement under the terms of the employee compensation or benefit plans established by Highland Capital as set forth in Appendix A.

The amounts paid in accordance with subparagraphs (a) and (b) are gross amounts, subject to lawful deductions, including any deductions you have previously authorized, and will be paid to you in accordance with applicable law.

Your paid group health insurance benefits will continue through, October 31, 2011. After the termination of your health insurance benefits on that date, you are entitled at your option to continue your group health insurance coverage in accordance with the health insurance plan and applicable law. Please complete a COBRA election form, which will be furnished to you, and return it to Discovery Benefits at your earliest convenience, in accordance with the terms of the election form, if you elect to continue such insurance coverage.

You acknowledge that your eligibility for any other employee benefit programs maintained by Highland Capital for current employees will cease as of the Separation Date, except as provided in Section 3 below.

3. Special Separation Compensation. Contingent upon (i) your acceptance of the terms of this Agreement, (ii) your and your spouse's execution of this Agreement (including Appendices), and (iii) your execution and delivery of a written consent of members of Sierra Verde, LLC ("Sierra Verde") acceptable to Highland Capital and Sierra Verde approving the termination or rescission of all compensation agreements, services agreements and/or equity interests or awards to which Sierra Verde is a party or recipient (the "Sierra Verde Agreement"), and in consideration of your undertakings as set forth in this Agreement, Highland Capital offers you, in addition to the pay and benefits you will receive or have received pursuant to Section 2, the following Special Separation Compensation:

(a) Lump sum payment of the equivalent of six weeks base pay (approximately $57,692) paid within 10 business days following the later of either the Effective Date of this Agreement or your Separation Date. This payment is in accordance with and in full satisfaction of any severance payments owed to you per the terms of your Employment Agreement dated on or about December 31, 2004 (the "Employment Agreement").

(b) Employee shall be permitted to retain the 2,875 shares of MGM Holdings Inc. ("MGM") restricted stock received by Employee in connection with Employee's service as a director to MGM solely to the extent such shares are vested prior to the termination or expiration of Employee's service as a director to MGM. To the extent any portion of the value of such vested shares is required to be reimbursed to any funds or accounts managed by Highland, 100% of such amounts shall be paid by Highland (or offset against fees payable to Highland).

(c) Tax:

(i) Tax Payment for 2011. Highland Capital will pay you the Federal Income Tax due that relates to the Federal 2011 K-1 issued for Highland Capital. If a tax refund is generated in 2011 or any previous years as a result of a 2011 Highland Capital Net Operating Loss or Capital Losses, you, shall remit such amounts back to Highland Capital within 10 business days of receipt of refund.

(ii) If you receive a "Notice of Tax Due" or other such letter from a governmental taxing authority demanding payment for taxes that relates to an Internal Revenue Service audit, or State audit, or other governmental agency audit of Highland Capital relating to a tax year during your tenure as a Partner of Highland Capital, Highland Capital agrees to timely payment of the tax, interest, and any penalties associated with the tax obligation upon final resolution of the obligation. Correspondingly, you agree that in order to receive such

PDADV_018477

payment, you will submit via certified mail within 10 business days to Highland Capital's Director of Human Resources a copy of the Notice of Tax Due or such letter from the governmental authority demanding payment. If after such payment, a subsequent refund is issued by the governmental authority, you agree to remit such amount back Highland Capital within 10 business days of receipt of refund.

(iii) In addition, if any tax refund issued to you that relates to your partnership interest in Highland Capital (excluding refunds associated with estimated and superseded HCMLP 2008 K-1s), you will remit such amount back to Highland Capital within 10 business days of receipt of refund.

The Special Separation Compensation specified in this Agreement will be provided to you, on the express condition that you have executed this Agreement and delivered a copy of this Agreement to Highland Capital in accordance with this Agreement, that you have fulfilled all your obligations under this Agreement, that you have not violated any of the requirements and prohibitions set forth in this Agreement, and that you have met all other specific conditions for the receipt of any particular payment or benefit set forth in any subparagraphs in this Agreement.

These amounts are gross amounts, subject to lawful deductions, including any deductions you have previously authorized. You agree that you will be responsible for paying all state, federal, and local taxes owed in connection with these payments.

By executing this Agreement, you acknowledge and agree that neither Highland Capital nor any of the other Released Parties (as defined in Section 4 of this Agreement) has any prior legal obligation to provide the Special Separation Compensation to you. You also acknowledge and agree that your acceptance of the Special Separation Compensation and attendant obligations as described in this Agreement is in consideration of your promises and undertakings as set forth in this Agreement.

If any provision of this Agreement (or of any award of compensation) would cause you or Highland Capital to incur any additional tax or interest under Section 409A of the Internal Revenue Code or any regulations or Treasury guidance promulgated thereunder, Highland Capital may reform such provision; provided that it will (i) maintain, to the maximum extent practicable, the original intent of the applicable provision without violating the provisions of Section 409A of the Code and (ii) notify and consult with you regarding such amendments or modifications prior to the effective date of any such change.

4. General Release. In consideration of the Special Separation Compensation described in Section 3 of this Agreement and all promised contained herein, you for yourself and on behalf of your spouse, heirs, successors, and assigns hereby release, acquit, and forever discharge any and all claims and demands of whatever kind or character, whether vicarious, derivative, or direct, that you individually, collectively, or otherwise, on behalf of your spouse, heirs, successors, and assigns, may have or assert against: (i) Highland Capital Management, L.P.; (ii) Highland Capital Management Services, Inc.; (iii) any parent, subsidiary, or affiliated

or related entity of Highland Capital Management, L.P. or Highland Capital Management Services, Inc., including but not limited to any funds managed by Highland Capital or any of its affiliates; (iv) James Dondero in his individual and official capacities; (v) Mark Okada in his individual and official capacities; (vi) any fiduciary, agent, insurer, attorney, spouses, or any successors and assigns of any of the foregoing entities and individuals, and (vii) any other past or present respective shareholders, partners, officers, directors, employees, independent contractors or representatives of any of the foregoing, in their individual and official capacities (collectively the "Released Parties"). This General Release includes but is not limited to any claim or demand based on any federal, state, or local statutory or common law or constitutional provision that applies or is asserted to apply, directly or indirectly, to the formation, continuation, performance, or termination of your employment relationship with Highland Capital, including but not limited to any claims under that certain Employment Agreement. This General Release also includes but is not limited to claims arising under federal, state, or local laws prohibiting employment discrimination, including but not limited to rights or claims under the Age Discrimination in Employment Act (ADEA). Thus, you agree to waive to the maximum extent permitted by law any claims, liabilities, demands, or causes of action, known or unknown, fixed or contingent, that you may have or claim against Highland Capital or any of the other Released Parties growing out of, resulting from, or connected in any way with your employment, the Employment Agreement and/or the termination from your employment with Highland Capital, and you do hereby agree not to file any lawsuit or other cause of action to assert any such claim.

This release includes any claims or demands for damages (actual or punitive), back wages, future wages or front pay, commissions, bonuses, severance benefits, workers compensation benefits, accrued vacation leave benefits, relocation expenses, or other employment benefits (except as contemplated by this Agreement), compensatory damages, liquidated damages, penalties, equitable relief, attorney's fees, costs of court, disbursements, interest, and any and all other loss, expense, or detriment of whatever kind or character, resulting from, growing out of, connected with, or related in any way to the formation, continuation, performance, or termination of your employment relationship with Highland Capital.

5. General Release of Employee. Contingent upon your acceptance of the terms of this Agreement, and in consideration of your promises and undertakings set forth in this Agreement, Highland Capital hereby releases, acquits and forever discharges any and all claims and demands of whatever kind or character, whether vicarious, derivative, or direct, that relate to the formation, continuation, performance, or your resignation from your employment relationship with Highland Capital that Highland Capital now has against you, except for: (i) any rights or claims against you that may arise by reason of any act, conduct, or omission by you which occurs after the date this Agreement is executed, or which Highland Capital becomes aware of after the date this Agreement is executed; or (ii) that relate in any way to Highland Capital's enforcement of any provision of this Agreement, regardless of when the alleged breach of this Agreement occurred.

6. Return of Property. Whether or not you accept the terms of this Agreement, you must return to Highland Capital or destroy by no later than the close of business on the Separation Date, if you have not already done so, or as soon thereafter as is possible with respect

PDADV_018479

to any items not then immediately available, any and all items of Highland Capital's property, including without limitation keys, access cards or devices, computers, software, calculators, equipment, credit cards, telephones, books or other publications, forms, files, manuals, correspondence, business records, lists of fees, personnel data, lists of employees, salary and benefits information (other than relating to you), investor, principal, client or other customer and prospect records, notes, lists of suppliers and vendors, lists of investors, principals, clients, and other customers and prospects, contracts, contract information, brochures, financial data, catalogs, training materials, marketing plans, computer tapes and diskettes or other portable media, computer-readable files and data stored on any form of storage media whether portable or installed, and data processing reports, and any and all other documents (including both originals and all copies of any documents) or property which you have had possession of or control over during the course of your employment with Highland Capital, regardless of the manner in which you acquired possession of the documents or property, and which you have not already returned to Highland Capital. By your signature, you represent that you have complied with these requirements, and that you no longer retain in your possession any such documents or other property or you have destroyed such. You further agree that should you discover any such property still in your possession, you will immediately return such property to Highland Capital, through the Human Resources Director, Highland Capital Management, L.P., 13455 Noel Road, Suite 800, Dallas, Texas 75240.

7. Use of Confidential Information. You acknowledge that during your employment with Highland Capital, Highland Capital and the other Released Parties disclosed to you and/or you learned or came into possession of privileged communications, trade secrets, and proprietary and confidential business information of Highland Capital and the other Released Parties, including but not limited to (i) information pertaining to specific business transactions in which Highland Capital or any of the other Released Parties were, are, or may be involved; (ii) information pertaining to specific legal or compliance matters in which Highland Capital or any of the other Released Parties were, are, or may be involved; (iii) any matters protected by the attorney-client privilege and/or work product doctrine; (iv) information concerning salary and benefits paid to current or former employees of Highland Capital or those of any of the other Released Parties, or any other personnel information relating in any way to current or former employees of Highland Capital or those of any of the other Released Parties; (v) any information, including names, relating to any investor, principal, client, supplier, financier, customer, or other persons who have business relationships with any of the Released Parties or who are prospects for such relationships; (vi) tear sheets, industry comparative analyses and information regarding products of the Released Parties and any Confidential Information possessed by any of the Released Parties; (vii) fee structures or arrangements; (viii) information pertaining to specific contractual matters in which Highland Capital or any of the other Released Parties were, are, or may be involved; (ix) any computer systems, or compilations of information, whether in written, printed or digital form; (x) business, pricing and management methods and information and finances, strategies, systems, research, plans, reports, recommendations and conclusions; (xi) information regarding Highland Capital's or any of the other Released Parties' business continuity plans, security plans and procedures, personnel policies and procedures, and marketing methods and techniques; (xii) other documents and information described in Section 6 above; (xiii) in general, the business, financial and legal affairs, business methods, and

PDADV_018480

operations of Highland Capital or any of the other Released Parties; (xiv) the personal, civic, family, and business activities of James Dondero, Mark Okada and their respective family members; and (xv) any document that contains or references confidential or propriety Highland Capital information (any and all such information being hereinafter referred to as "Confidential Information"). "Confidential Information" includes any and all confidential or proprietary information or trade secrets of Highland Capital or any of the other Released Parties that was obtained or developed by you since the commencement of your employment with Highland Capital. Notwithstanding the specific categories of confidential information listed above, this confidentiality provision does not apply to any of the following categories of information: (i) information that was or becomes generally available to the public other than as a result of your disclosure in breach of this Agreement; (ii) information that becomes available to you on a confidential basis from a source other than Highland Capital or any of the other Released Parties, provided that such source is not bound by a confidentiality agreement with Highland Capital; or (iii) information you can establish was within your possession prior to its being furnished to you by or on behalf of Highland Capital or any of the other Released Parties, provided that the source of such information was not known by you to be bound by a confidentiality agreement with Highland Capital in respect thereof. Notwithstanding the preceding sentence, compilations of information collected, generated or prepared by or on behalf of Highland Capital, or any of the other Released Parties will not be considered to fall within any of the exceptions set forth in the preceding sentence (i) if the format in which such information has been collected, collated, maintained and/or disseminated by Highland Capital or any of the other Released Parties is confidential or proprietary to such entities and individuals; or (ii) merely because individual components or combinations thereof are now or become known to the public.

You further acknowledge and agree that Highland Capital and the other Released Parties did not voluntarily disclose the Confidential Information, but rather took precautions to prevent the disclosure of Confidential Information beyond those employees to whom Highland Capital communicated the information. You further acknowledge and agree that such Confidential Information was communicated to you when you knew of its confidential nature, and that such information constitutes valuable, special and unique assets, trade secrets, properties, rights and interests of Highland Capital and the other Released Parties, the disclosure of which could cause substantial injury and loss of profits and good will to Highland Capital, and the other Released Parties.

You acknowledge and agree that you will maintain the confidentiality of, and will not use or disclose, either directly or indirectly, any or all Confidential Information of Highland Capital or any of the other Released Parties, irrespective of whether such information is written, oral, or computerized. In the event it appears that you will be compelled by law or judicial process to disclose such Confidential Information, to avoid potential liability you must notify Human Resources Director, Highland Capital Management, L.P., 13455 Noel Rd, Suite 800, Dallas, TX 75240, by telephone and in writing promptly upon your receipt of a subpoena or other legal process. You further agree that you will use your reasonable efforts to afford Highland Capital and any of the other Released Parties the ability to challenge the disclosure of information pursuant to such subpoena prior to any disclosure by you of the information specified in the subpoena. Furthermore, in the event you are contacted by any person or entity seeking

PDADV_018481

Confidential Information about Highland Capital or any of the other Released Parties, you will not provide any such information in response to the request, and you agree to notify Human Resources Director, Highland Capital Management, L.P., 13455 Noel Road, Suite 800, Dallas, Texas 75240, by telephone and in writing promptly upon your receipt of any such request for information.

You further agree that for a period of one (1) year following the date hereof you will abide by all securities laws regarding the use of confidential information related to investment decisions relating to any securities of any issuer listed on a Restricted Securities List to be provided to you on, or within five (5) days after, the Separation Date.

If you breach any obligation under this Section, you acknowledge and agree that Highland Capital and the other Released Parties have no complete and adequate remedy at law and would suffer irreparable harm and substantial loss, and that monetary damages cannot fully compensate Highland Capital or the other Released Parties in such event; and as a result of which you admit that a temporary injunction, without bond, should be entered for Highland Capital or any of the other Released Parties in any such event, restraining you from using or disclosing, in whole or in part, any Confidential Information of Highland Capital or any of the other Released Parties. You further acknowledge and agree that nothing herein will be construed to prohibit Highland Capital or any of the other Released Parties from pursuing other remedies available to them, by law and equity, for breach of any obligation of this Section, and should you breach any obligation under this Section, Highland Capital and any of the other Released Parties will also be entitled to enforce the provisions of this Section by seeking to recover any monetary damages Highland Capital and any of the other Released Parties may sustain as a result of such breach, including but not limited to their attorney's fees and costs of court incurred to enforce the provisions of this Section, and will have no obligation to pay you the unpaid portion of the Special Separation Compensation described above. You further acknowledge and agree that, in enforcing their rights under this Section, Highland Capital or any of the other Released Parties will not be required to prove that any of such information is confidential, proprietary, or a trade secret, or material, or important, and you stipulate that as between you and Highland Capital or any of the other Released Parties, the same are important, material, and confidential or proprietary or a trade secret, and gravely affect the effective and successful conduct of the business of Highland Capital or any of the other Released Parties.

8. Confidentiality, Nonprosecution, and Nondisparagement by Employee. In consideration of the Special Separation Compensation described in Section 3 of this Agreement and all promised contained herein, you further agree that:

(a) The terms of this Agreement will be and remain confidential and will not be disclosed by you to any persons other than your family members and your attorneys (if you choose to retain counsel), accountants and/or tax return preparers if such persons have agreed to keep such information confidential. Notwithstanding the foregoing, you may make any disclosures concerning the terms of this Agreement that are required by law.

(b) Except as requested by Highland Capital or as compelled by law or judicial process, you will not assist, cooperate with, or supply information of any kind to any individual or

PDADV_018482

private-party litigant or their agents or attorneys (i) in any proceeding, investigation, or inquiry raising issues under any federal, state, or local law involving the formation, continuation, performance, or termination of your employment relationship, or the employment of other persons, by Highland Capital or any of the other Released Parties; or (ii) in any other litigation, examination, audit or investigation involving or related to Highland Capital or any of the other Released Parties.

(c) You agree to waive any right to monetary recovery should any administrative agency or other individual or group of individuals pursue any claim on your behalf. You further agree that you will not request or accept anything of value from Highland Capital not provided for in this Agreement as compensation or damages related to your employment or your resignation from your employment with Highland Capital. You further acknowledge and agree that this Agreement will bar you from receiving any compensation or personal relief in any such event.

(d) You will not make to any other persons or entities any statement, oral or written, which directly or indirectly impugns the quality or integrity of Highland Capital's or any of the other Released Parties' business or employment practices, or any other disparaging or derogatory remarks about Highland Capital or any of the other Released Parties.

It will not be a breach of the obligations set forth in this Section for you to state to any person that any differences, if you believe any to exist, between you and Highland Capital that have been settled or satisfactorily resolved.

9. Confidentiality, Non-prosecution, and Non-disparagement by Highland Capital or the Released Parties. In consideration of the promises made by you herein, Highland Capital and the Released Parties further agree that:

(a) The terms of this Agreement will be and remain confidential and will not be disclosed by Highland Capital or the Released Parties to other persons or entities, except as may be authorized by you. Notwithstanding the foregoing, disclosures concerning the terms of this Agreement may be made that are required by law. In addition, Highland Capital may disclose all information necessary to provide the Limited Partners of Highland Capital with notice of your resignation.

(b) Highland Capital and/or the Released Parties will not initiate any proceeding, investigation, or inquiry, or any other action of any kind with any governmental agency, with respect to any activity relating to your employment or your resignation from your employment.

(c) Highland Capital and the Released Parties will not make to any other persons or entities any statement, oral or written, which directly or indirectly impugns the quality or integrity of your character, any service or activity you provided relating to your employment or resignation of your employment, or any other disparaging or derogatory remarks about you. Furthermore, neither Highland Capital nor the Released Parties will make any statement, remark, or publication of any fact or opinion that could affect a third

PDADV_018483

party from engaging in or refraining from a business relationship of any kind with you. Additionally, neither Highland Capital nor the Released Parties may not cause intentionally or unintentionally through a statement or omission of fact or speculation that would likely result in third party to terminate an existing business relationship of any kind with you.

It will not be a breach of the obligations set forth in this Section for Highland Capital or the Released Parties to state to any person that any differences, if Highland Capital believes any to exist, between you and Highland Capital that have been settled or satisfactorily resolved.

10. Consultation and Cooperation. You agree to cooperate fully and completely with Highland Capital or any of the other Released Parties, at their reasonable request, to consult, and provide such information as may from time to time be requested by Highland Capital in its sole discretion in connection with various legal or business matters in which you were involved during your employment with Highland Capital, or about which you have knowledge or information, and to take any other action reasonably required by Highland Capital relating to matters occurring during your employment with Highland Capital, including cooperation with Highland Capital or any of the other Released Parties, in all pending and future litigation, claims, investigations, examinations, or audits by any federal, state, or local governmental agencies involving Highland Capital and any of the other Released Parties, in which Highland Capital believes you may have relevant knowledge or information. This obligation includes your meeting with Highland Capital or the other Released Parties and their counsel, or with any government investigators or other representatives, at reasonable times upon Highland Capital's request; providing testimony in court or upon deposition and other information (whether by testimony or otherwise) that is truthful, accurate, and complete, according to information known to you, in connection with the prosecution or defense of Highland Capital or any of the other Released Parties in such litigation, claims, investigations, examinations, or audits. If you appear as a witness or provide information in any pending or future litigation, claims, investigations, examinations, or audits at the request of Highland Capital or any of the other Released Parties, Highland Capital agrees to reimburse you at the agreed hourly rate of $400 for your time devoted to such activities, upon presentation of substantiating documentation and for any reasonable out of pocket expenses incurred by you in cooperating pursuant to this Section 10. While performing services pursuant to this Agreement, and thereafter, you acknowledge and agree that your relationship to Highland Capital will be that of an independent contractor, that Highland Capital will not exercise any control or direction over the methods by which you perform services pursuant to this Agreement, and that you will not be nor will you represent to anyone that you are an agent or active employee of Highland Capital. Consequently, you will have no authority to enter into contracts, commitments, or obligations of any kind, or to make any representations, on behalf of Highland Capital, unless expressly authorized to do so in writing by an authorized representative of Highland Capital. Nor will you have or exercise the authority to supervise or direct the activities of any Highland Capital employee. You further agree to hold harmless and indemnify Highland Capital for any claim, expense, loss, or damage, including without limitation its costs and attorney's fees, occasioned by your breach of this obligation. You further acknowledge and agree that, during such period when you are providing consulting services to Highland Capital and thereafter, you will not be eligible to participate in any of the

rights and benefits afforded to employees of Highland Capital. Highland Capital and the Released Parties agree to hold harmless and indemnify you for any claim, expense, loss or damage, including without limitation your costs and attorney's fees, arising out of or in connection with any such cooperation you undertake pursuant to this Section 10. Notwithstanding the foregoing, this Section 10 will be inapplicable to your consultation to or cooperation with Cornerstone or its subsidiaries, which will be governed exclusively by the Cornerstone Agreement.

11. Restrictive Covenants: Non-Solicitation, Non-Recruitment, and Non-Competition. In consideration of the Special Separation Compensation provided to you by Highland Capital and all promised contained herein, you hereby reaffirm the obligations set forth in Section 5.3 of your Employment Agreement.

You agree that you will forfeit the Special Separation Compensation paid to you by Highland Capital if the obligations in set forth in Section 5.3 of your Employment Agreement are not fulfilled.

12. Personnel Records. You acknowledge and agree that your personnel records will reflect that you are not eligible for rehire with Highland Capital or any of the other Released Parties.

13. Agreement Not to Seek Reemployment. Further in consideration of the Special Separation Compensation and all promised contained herein, you understand and agree that Highland Capital and the other Released Parties have no obligation to employ or to hire or rehire you, to consider you for hire, or to deal with you in any respect at any location, office, or place of business with regard to future employment or potential employment. Accordingly, in consideration of the Special Separation Compensation and all promised contained herein, you hereby agree: (i) that you will not apply for or otherwise seek employment by Highland Capital or any of the other Released Parties at any time in the future, at any location, office, or place of business, and (ii) that your forbearance to seek future employment as just stated is purely contractual and is in no way involuntary, discriminatory, or retaliatory.

14. Non-admission of Liability or Wrongdoing; Non-admissibility. You acknowledge and agree that this Agreement does not in any manner constitute an admission of liability or wrongdoing on the part of Highland Capital or any of the other Released Parties, or on your part. In fact, Highland Capital and the other Released Parties and you expressly deny any such liability or wrongdoing. Further, neither this Agreement nor any part of it may be construed, used, or admitted into evidence in any judicial, administrative, or arbitral proceedings, except to the extent necessary to enforce this Agreement.

15. Authority to Execute. You represent and warrant that you have the authority to execute this Agreement on behalf of all the Releasing Parties, and that you have not assigned, sold, transferred or otherwise granted to any person any right related to your employment by, or your resignation from your employment with, Highland Capital, including any claims or demands in respect thereof. You further agree to indemnify fully and hold harmless Highland Capital and any of the other Released Parties from any and all claims brought by the Releasing

PDADV_018485

Parties or derivative of your own, including the amount of any such claims Highland Capital or any of the other Released Parties are compelled to pay, and the costs and attorneys' fees incurred in defending against all such claims.

16. Governing Law and Interpretation. This Agreement and the rights and duties of the parties under it will be governed by and construed in accordance with the laws of the State of Texas. If any provision of this Agreement is held to be unenforceable, such provision will be considered separate, distinct, and severable from the other remaining provisions of this Agreement, and will not affect the validity or enforceability of such other remaining provisions, and that, in all other respects, this Agreement will remain in full force and effect. If any provision of this Agreement is held to be unenforceable as written but may be made to be enforceable by limitation thereof, then such provision will be enforceable to the maximum extent permitted by applicable law. The language of all parts of this Agreement will in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. Any dispute regarding the subject matter, terms, or performance of this Agreement will be brought only in a court of competent jurisdiction in Dallas County, Texas. Highland Capital and you expressly agree that proper jurisdiction and venue for any such disputes must be in Dallas County, Texas only.

17. Breach of Agreement. If you violate or fail to comply with any of your obligations as set forth in this Agreement, including but not limited to Section 11. Restrictive Covenants: Non-Solicitation, Non-Recruitment, and Non-Competition, Highland Capital will have no obligation to make payment of any unpaid Special Separation Compensation, however all other provisions of this Agreement will remain in full force and effect.

If, notwithstanding your release of claims as described in Section 4 above, you (or any other party asserting any claim derivative of your own) should nonetheless proceed to make any such claims against Highland Capital or any of the other Released Parties by bringing an action in a federal, state, or municipal court, or before any administrative or arbitral body that has the power to make a monetary or equitable award, then in addition to any other legal or equitable remedies available to Highland Capital for your breach of this Agreement, Highland Capital may seek, and the court or other body hearing the claims may hold you liable for, Highland Capital's damages and costs, including attorneys' fees, incurred in defending against your claims.

Both Highland Capital and you agree that any controversy or claim arising out of or relating to this Agreement will first be submitted to non-binding mediation prior to the commencement of litigation proceedings, with mediation expenses to be borne equally by the parties. Only in the event the parties are unable to resolve their differences through mediation may either party initiate litigation proceedings to enforce this Agreement.

You agree and acknowledge that Highland Capital and/or the other Released Parties would suffer irreparable harm, incur substantial damage and would not have an adequate remedy at law for money damages if you were to breach this Agreement. Accordingly, you acknowledge that, without the necessity of proving actual damages or posting bond or other security, Highland Capital and/or the other Released Parties are entitled to temporary or permanent injunction or injunctions to prevent breaches of performance and to specific enforcement of applicable

PDADV_018486

covenants in addition to any other remedy to which Highland Capital and/or the other Released Parties may be entitled, at law or in equity. In such a situation, Highland Capital and/or the other Released Parties may pursue any remedy available, including declaratory relief, concurrently or consecutively in any order as to any breach, violation, or threatened breach or violation of any of the provisions set forth in this Agreement, and the pursuit of any particular remedy is not to be deemed an election of remedies or waiver of the right to pursue any other remedy.

18. Expiration of Offer. Highland Capital's offer of the Special Separation Compensation will expire at 5:00 p.m. twenty-one (21) days following the date of this Agreement (the "Expiration Date"). You may accept the terms and condition contained in this Agreement at any time before the Expiration Date by signing in the space provided below, and delivering this Agreement to Human Resources Director, Highland Capital Management, L.P., 13455 Noel Road, Suite 800, Dallas, Texas 75240. Whether or not you execute this Agreement, you are required to fulfill the obligations set forth in Sections 6 and 7 of this Agreement.

19. Effective Date. This Agreement will become effective and enforceable upon the expiration of seven (7) days after your and the Company's execution of it and delivery of a signed copy to the Human Resources Department, Highland Capital Management, L.P., 13455 Noel Road, Suite 800, Dallas, Texas 75240 ("Effective Date").

20. Assignment of Work Product/Works for Hire. You further acknowledge and agree that any work product prepared, conceived or developed by you during the term of your employment with Highland Capital, including but not limited to all written documents and electronic data pertaining thereto, are and shall remain the exclusive property of Highland Capital, and will be considered Confidential Information subject to the terms of this Agreement. You agree that when appropriate, and upon written request of Highland Capital, you will acknowledge that your work product constitute "works for hire" and will cooperate in the filing for patents or copyrights with regard to any or all such work product and will sign documentation necessary to evidence ownership of such work product in Highland Capital.

21. Consultation with an Attorney. You acknowledge that you have the right and are encouraged to consult with an attorney of your choosing before executing this Agreement.

22. Assignment of Claims. Further in consideration of the promises and undertakings of Highland Capital memorialized in this Agreement, you represent and warrant to Highland Capital that you have not assigned any part of your claims or causes of action, whether vicarious, derivative, or direct, to anyone, and that no persons are or may be entitled to any portion of the proceeds paid in settlement of your claims or causes of action, if any, either by subrogation or otherwise, except as may be set forth in this Agreement. You further agree to indemnify fully and hold Highland Capital and any of the other Released Parties harmless from any and all claims derivative of your own, including the amount of any such claim Highland Capital or any of the other Released Parties are compelled to pay, and the costs, including attorney's fees, incurred by them in defending against all such claims.

23. Knowing and Voluntary Agreement. You acknowledge that this Agreement has been read and explained to you by your attorney if you choose to retain counsel, or that you have

PDADV_018487

had the opportunity to engage an attorney for such purpose; and that you have had a reasonable period of time in which to deliberate regarding its terms and to consider whether you wish to enter into this Agreement, that you fully understand the meaning and effect of your action in executing it; and that your execution of this Agreement is knowing and voluntary. You further acknowledge that neither Highland Capital nor any of the other Released Parties has made any promise or representation to you that is not expressed in this Agreement, and that in entering this Agreement, you are not relying on any statement or representation by Highland Capital or any of the other Released Parties, but are instead relying solely on your own judgment in consultation with your attorneys, if you choose to retain counsel.

24. Status of Released Parties as Third-Party Beneficiaries. Highland Capital and you further acknowledge and agree that all the other Released Parties and third-party beneficiaries of this Agreement, and, in that capacity, are entitled to assert their own claims against you or Highland Capital (as the case may be) in the event of your or Highland Capital's breach of this Agreement that adversely affects their interests. Further, this Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

25. Arbitration. In the event there is an unresolved legal dispute between the parties and/or any of their respective officers, directors, partners, employees, agents, affiliates or other representatives that involves legal rights or remedies arising from this Agreement or the employment relationship between Employee and Highland Capital or the Released Parties, the parties agree to submit their dispute to binding arbitration under the authority of the Federal Arbitration Act; provided, however, that Highland Capital or the Released Parties thereof may pursue a temporary restraining order and/or preliminary injunctive relief in connection with any non-competition, non-solicitation and/or confidentiality covenants or agreements binding on Employee, with related expedited discovery for the parties, in a court of law, and, thereafter, require arbitration of all issues of final relief. This paragraph does not prohibit Employee from filing or cooperating in a charge before a federal administrative agency without pursuing private litigation. Insured workers compensation claims (other than wrongful discharge claims), and claims for unemployment insurance are excluded from arbitration under this provision. The Arbitration will be conducted by the American Arbitration Association, or another, mutually agreeable arbitration service. The arbitrator(s) shall be duly licensed to practice law in the State of Texas. The discovery process shall be limited to the following: Each side shall be permitted no more than (i) two party depositions of six hours each. Each deposition is to be taken pursuant to the Texas Rules of Civil Procedure; (ii) one non-party deposition of six hours; (iii) twenty-five interrogatories; (iv) twenty-five requests for admission; (v) ten requests for production. In response, the producing party shall not be obligated to produce in excess of 5,000 total pages of documents. The total pages of documents shall include electronic documents; (vi) one request for disclosure pursuant to the Texas Rules of Civil Procedure. Documents produced pursuant to Texas Rule of Civil Procedure 194.2(f) shall not be included in, or counted toward, the 5,000 page limit described supra. Any discovery not specifically provided for in this paragraph, whether to parties or non-parties, shall not be permitted. The arbitrator(s) shall be required to state in a written opinion all facts and conclusions of law relied upon to support any decision rendered. No arbitrator will have authority to render a decision that contains an outcome

determinative error of state or federal law, or to fashion a cause of action or remedy not otherwise provided for under applicable state or federal law. Any dispute over whether the arbitrator(s) has failed to comply with the foregoing will be resolved by summary judgment in a court of law. In all other respects, the arbitration process will be conducted in accordance with the American Arbitration Association's employment dispute resolution rules or other mutually agreeable, arbitration service rules. As necessary Highland Capital will pay any up-front arbitration costs and arbitrator's fees, subject to a final arbitration award on who should bear costs and fees. All proceedings shall be conducted in Dallas, Texas, or another mutually agreeable site. Each party shall bear its own attorneys fees, costs and expenses, including any costs of experts, witnesses and/or travel, subject to a final arbitration award on who should bear costs and fees. The duty to arbitrate described above shall survive the termination of this Agreement. Except as otherwise provided above, the parties hereby waive trial in a court of law or by jury. All other rights, remedies, statutes of limitation and defenses applicable to claims asserted in a court of law will apply in the arbitration. Employee expressly acknowledges and agrees that the agreements set forth in this paragraph shall also apply to any disputes under all other agreements between Employee and either of Highland Capital or any Released Parties.

26. Waiver. You and Highland Capital further acknowledge and agree that the failure of Highland Capital or any of the other Released Parties or you at any time to enforce any provisions of this Agreement shall not be construed to be a waiver of such provisions or any other provisions of this Agreement, or of Highland Capital's or any of the other Released Parties' right thereafter to enforce any such provision.

27. Entire Agreement. This Agreement (i) contains and constitutes the entire understanding and agreement between you and Highland Capital with respect to its subject matter; (ii) supersedes and cancels any previous negotiations, agreements, commitments, and writings with respect to that subject matter; and (iii) may not be released, discharged, abandoned, supplemented, changed, or modified in any manner except by a writing of concurrent or subsequent date executed by both you and an authorized officer of Highland Capital. This Section 27 is not applicable to Article V of your Employment Agreement, the Sierra Verde Agreement, the Cornerstone Agreement or any other confidentiality, non-compete, non-recruit, or non-solicitation provisions in any other documents you are subject to.

PDADV_018489

If you are in agreement with the provisions of this Agreement, please execute both copies in the space provided below. You should return one executed original as provided above, and maintain the other executed original in your files.

Sincerely,

Highland Capital Management, L.P.

By:_____

ACCEPTED AND AGREED TO:

_____
Patrick Daugherty

Date Signed:_____

PDADV_018490

Appendix A

Subject to the terms provided for in this Appendix A, the following payments shall be made to you in satisfaction of all monies owed to you under the terms of Highland Capital's compensation or employee benefit plans:

Long Term Incentive Plan
Payment in accordance with terms of 2005 HCMLP Long-Term Incentive Plan (the "LTIP") dated on or about January 1, 2005 for the 372,830 vested LTIP units. For the avoidance of doubt, compliance with LTIP Section 8.8(b) "The Restrictive Covenants" is required to receive payment for the Long Term Incentive Plan Units. LTIP Section 8.8(b) "The Restrictive Covenants" includes Non-Solicitation, Non-Recruitment, and Non-Competition.

Option IT
Payment in accordance with terms of 2005 HCMLP Option Plan Option Agreement (the "Option Plan Agreement') based on underlying net asset values as of October 31, 2011. The resulting payment under the Option Plan Agreement shall be provided within ten business days of applicable final net asset values being produced for the month ended October 31, 2011. The amounts paid are subject to lawful deductions, including any deductions you have previously authorized, and will be paid to you in accordance with applicable law.

Defined Benefit Plan
These monies will be paid out, at your request, by the plan administrator per the terms of the plan.

401K Plan
These monies will be paid out, at your request, by the plan administrator per the terms of the plan.

PDADV_018491

Appendix B

ASSIGNMENT OF INTEREST

IN

Highland Capital Management, L.P., a Delaware Limited Partnership

Patrick Daugherty (the "Assignor") hereby assigns, transfers, surrenders and conveys of all of his right, title, and interest in and to a 1.24276 % Percentage Interest in the Partnership, as represented by 372,830 Long Term Incentive Plan units, and all the capital, profits, and losses of the Partnership associated therewith (the "Interest"), free and clear of all liens, encumbrances, security interests, claims, or options, to the Partnership as of this 31 day of October 2011 (the "Effective Date"), subject to the General Release and Separation Agreement, including Appendix A, dated on or about October 17, 2011.

IN WITNESS WHEREOF, the Assignor and Partnership have executed this Assignment effective as of the ___day of _____, _____.

ASSIGNOR:

_____
Patrick Daugherty

ACCCEPTED BY THE PARTNERSHIP

Highland Capital Management, L.P.

By: Strand Advisors, Inc.,
Its general partner

By: _____
Name: _____
Title: _____

PDADV_018492

The undersigned spouse of Patrick Daugherty, in consideration of the Salary and Benefits, Special Consideration, and Benefits, covenants and agreements set forth in the Separation Agreement of even date herewith of which this Agreement of Interest is a part, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, hereby agrees to this Assignment of Interest and the terms of the Separation Agreement.

SPOUSE OF ASSIGNOR:_____

EXHIBIT 42

PDADV_004796-PDADV_004797

From: **Patrick Daugherty** phdaugherty@gmail.com
Subject: Re: Highland 2008 Audit Letter Attachments - Daugherty
Date: February 13, 2018 at 8:58 AM
To: Brian Collins BCollins@HighlandCapital.com
Cc: Human Resources HR@hcmlp.com

I do not consent to allow Highland Capital to represent me regarding the field examiners' proposed tax adjustments based on their audit of the 2008 partnership tax return, and I reserve the right to attend the closing conference (personally, through my own counsel, or both) and actively participate in it if I feel it is necessary to protect my interests concerning the proposed adjustment. Please provide me with any future correspondence that Highland Capital receives from the IRS concerning the audit and proposed adjustments.

Patrick Daugherty

> On Feb 7, 2018, at 4:38 PM, Brian Collins <BCollins@HighlandCapital.com> wrote:
>
> The closing conference for the Highland 2008 audit is scheduled for March 2, 2018 from 10:00am to 12:00pm. The closing conference will take place at the IRS offices located in the federal building at 4050 Alpha Road in Farmers Branch. Once through security, typically an IRS employee escorts taxpayers to the closing conference room. We will provide more details regarding this once it is made available to Highland.
>
> The IRS has requested we provide any questions in advance of the closing conference. We must provide them no later than February 8 so that they may have sufficient time to prepare. Please send us the questions you have by Noon on February 8.
>
> For your convenience, we have enclosed the 2008 Schedule K-1 that you received from Highland and were required to report on your personal 2008 federal tax return. You should speak with your tax advisor regarding the consequences under federal income tax law of such reporting as it related to our question as to your status as a partner in Highland.
>
> Brian C. Collins | DIRECTOR OF HUMAN RESOURCES
> 300 Crescent Court | Suite 700 | Dallas, Texas 75201
> O: 972.419.4438 | F: 972.628.4137
> bcollins@highlandcapital.com | www.highlandcapital.com
>
> -----Original Message-----
> From: Patrick Daugherty [mailto:phdaugherty@gmail.com]
> Sent: Monday, February 5, 2018 6:00 PM
> To: Brian Collins <BCollins@HighlandCapital.com>
> Cc: Human Resources <HR@hcmlp.com>
> Subject: Re: Highland 2008 Audit Letter Attachments - Daugherty
>
> I will attend the closing conference with the IRS on March 2, 2018. Please send details of the meeting.
>
> Patrick Daugherty
>
> > On Feb 5, 2018, at 12:46 PM, Brian Collins <BCollins@HighlandCapital.com> wrote:
> >
> > <Transmittal Letter for 2008 Summary Report Daugherty.pdf>
>
> ---
>
> DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.
> <Excelsior_20180207_070216.pdf>

EXHIBIT 43

CAUSE NO. 12-04005

HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiffs,	§	IN THE DISTRICT COURT OF
v.	§	
PATRICK DAUGHERTY, Defendant and Counter-Plaintiff,	§	DALLAS COUNTY, TEXAS
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN, Third-Party Defendants.	§	68th JUDICIAL DISTRICT

FINAL JUDGMENT

On January 14, 2014, this case was called to trial. Plaintiff/Counter-Defendant Highland Capital Management, L.P. ("Highland"), and Third-Party Defendants Sierra Verde, LLC and James Dondero ("Dondero") appeared themselves and/or through their attorneys of record and announced ready for trial. Defendant/Counter-Plaintiff/Third-Party Plaintiff Patrick Daugherty ("Daugherty") appeared himself and through his attorneys of record and announced ready for trial. Highland Employee Retention Assets LLC ("HERA"), Patrick Boyce, and William L. Britain appeared themselves and/or through their attorneys of record and announced ready for trial.

After a jury was impaneled and sworn, it heard evidence and arguments of counsel. In response to the jury charge, the jury made findings that the Court received, filed, and entered of record. The questions submitted to the jury and the jury's findings are attached as Exhibit 1 hereto and incorporated by reference.

The Court renders this Final Judgment under the jury verdict and the evidence heard at trial, as well as having considered any and all post-verdict motions and briefing submitted to the Court and arguments of counsel.

The Court, after considering the jury's findings regarding Daugherty's breaches of contract and breaches of fiduciary duty owed to Highland, and after hearing evidence and considering the nature of the harm suffered by Highland as a result, finds and concludes that Highland is entitled to relief hereinafter given.

It is therefore further ORDERED that Daugherty be and hereby is commanded to cease and desist from retaining, using, disclosing, publishing or disseminating Highland's (or its affiliates') confidential, proprietary, and/or privileged information, including but not limited to information concerning Highland's customers, clients, marketing, business and operational methods, contracts, financial data, technical data, e-mail, pricing, management methods, finances, strategies, systems, research, plans, reports, recommendations and conclusions, tear sheets, industry comparative analysis, Collateralized Loan Obligation (CLO) and other structured products, and names, arrangements with, or other information relating to Highland's (or its affiliates') customers, clients, suppliers, financiers, owners, and business prospects. Notwithstanding the foregoing, Daugherty may use or disclose the information described in this paragraph only as (i) required by law; or (ii) directed and authorized in writing by Highland.

The Court further ORDERS that Highland have and recover from Daugherty $2,800,000 for reasonable and necessary attorneys' fees rendered through trial.

It is further ORDERED that the total amount of the judgment here rendered for Highland against Daugherty will bear interest at the rate of 5% per annum from the date this judgment is signed until paid.

Furthermore, the Court, after considering the jury's findings regarding HERA's breach of the implied covenant of good faith and fair dealing, finds and concludes that Daugherty is entitled to relief hereinafter given.

It is therefore further ORDERED that Daugherty have and recover $2,600,000 from HERA, ~~representing the full value of Daugherty's interest in HERA as determined by the jury.~~

It is further ORDERED that Daugherty shall no longer have any ownership or other interest in HERA or any proceeds or accounts arising from Daugherty's prior interest in HERA that were not distributed to Daugherty prior to the entry of this judgment, Daugherty having been awarded the full value of that interest in HERA as determined by the jury.

It is further ORDERED that total amount of the actual damages rendered against HERA herein will bear prejudgment interest at the rate of 5% simple interest from May 22, 2012, until the day before this judgment is signed.

It is further ORDERED that the total amount of the judgment here rendered against HERA will bear interest at the rate of 5% per annum, compounded annually, from the date this judgment is signed until paid.

Furthermore, the Court, after considering the jury's findings regarding the claims for breach of fiduciary duty asserted against Patrick Boyce and William L. Britain by Third-PartyCounter -Plaintiff Patrick Daugherty, suing individually and/or suing derivatively on behalf of Highland Employee Retention Assets LLC, finds that Boyce and Britain are entitled to a take-nothing judgment as to all claims asserted against them.

It is therefore further ORDERED that Third-Party Counter-Plaintiff Patrick Daugherty, suing individually and/or derivatively on behalf of Highland Employee Retention Assets LLC,

shall take nothing on the claims for breach of fiduciary duty against Patrick Boyce and William L. Britain.

This judgment disposes of all claims asserted against Patrick Boyce and William L. Britain in the above-captioned cause. All other relief that Daugherty seeks pertaining to Boyce and Britain not expressly granted in this judgment is denied.

It is further ORDERED that all Parties shall bear their own respective costs of Court.

All writs and processes for the enforcement and collection of the judgment may issue as necessary.

All relief requested and not expressly granted is denied. This judgment disposes of all parties and claims and is appealable.

SIGNED on July 1-1, 2014.

The Honorable Martin Hoffman

EXHIBIT 44

Verdict Copy

CAUSE NO. 12-04005

HIGHLAND CAPITAL MANAGEMENT, L.P., AND CORNERSTONE HEALTHCARE GROUP HOLDING, INC.	§	**IN THE DISTRICT COURT OF**
Plaintiffs,	§	
v.	§	
PATRICK DAUGHERTY,	§	**DALLAS COUNTY, TEXAS**
Defendant and Counter-Plaintiff,	§	
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	**68th JUDICIAL DISTRICT**
Third-Party Defendants.	§	

JURY CHARGE

Presiding Juror:

1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.

2. The presiding juror has these duties:

   a. have the complete charge read aloud if it will be helpful to your deliberations;

   b. preside over your deliberations, meaning manage the discussions, and see that you follow these instructions;

   c. give written questions or comments to the bailiff who will give them to the judge;

   d. write down the answers you agree on;

   e. get the signatures for the verdict certificate; and f.

   notify the bailiff that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.

Instructions for Signing the Verdict Certificate:

1. You may answer the questions on a vote of ten jurors. The same ten jurors must agree on every answer in the charge. This means you may not have one group of ten jurors agree on one answer and a different group of ten jurors agree on another answer.

2. If ten jurors agree on every answer, those ten jurors sign the verdict.

If 11 jurors agree on every answer, those eleven jurors sign the verdict

If all 12 of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.

3. All jurors should deliberate on every question. You may end up with all twelve of you agreeing on some answers, while only ten or eleven of you agree on other answers. But when you sign the verdict, only those ten who agree on every answer will sign the verdict.

Do you understand these instructions? If you do not, please tell me now.

JUDGE PRESIDING

GENERAL INSTRUCTIONS AND DEFINITIONS

MEMBERS OF THE JURY:

After the closing arguments, you will go to the jury room to decide the case, answer the questions that are attached, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason. I will give you a number where others may contact you in case of an emergency.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

Here are the instructions for answering the questions.

1. Do not let bias, prejudice, or sympathy play any part in your decision.

2. Base your answers only on the evidence admitted in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not admitted in the courtroom.

3. A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.

4. Deposition testimony is testimony which has previously been taken under oath. You are instructed that such testimony is entitled to be given the same weight you would give it if it were presented by a witness appearing in the courtroom during trial.

5. You are to make up your own minds about the facts. You are the sole judges of the

credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.

6. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.

7. All the questions and answers are important. No one should say that any question or answer is not important.

8. Answer "yes" or "no" to all questions unless you are told otherwise. A "yes" answer must be based on a preponderance of the evidence unless you are told otherwise. Whenever a question requires an answer other than "yes" or "no," your answer must be based on a preponderance of the evidence unless you are told otherwise.

The term "preponderance of the evidence" means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a "yes" answer, then answer "no." A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

9. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.

10. Do not answer questions by drawing straws or by any method of chance.

11. Some questions might ask you for a dollar amount. Do not agree in advance to decide on a dollar amount by adding up each juror's amount and then figuring the average.

12. Do not trade your answers. For example, do not say, "I will answer this question your way if you answer another question my way."

13. Unless otherwise instructed, the answers to the questions must be based on the decision of at least ten of the twelve jurors. The same ten jurors must agree on every answer. Do not agree to be bound by a vote of anything less than ten jurors, even if it would be a majority.

As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

DEFINITIONS

The following terms are defined in the Court's charge as follows:

"Boyce" shall mean Patrick Boyce.

"Britain" shall mean William L. Britain.

"Buy-Sell Agreement" shall mean the Amended and Restated Buy-Sell Redemption Agreement.

"Daugherty" shall mean Patrick Daugherty.

"Dondero" shall mean James Dondero.

"Employment Agreement" shall mean the Amended Employment Agreement between Highland and Daugherty entered into on December 31, 2004.

"HERA" shall mean Highland Employee Retention Assets LLC.

"Highland" shall mean Highland Capital Management, L.P.

"LTIP Agreement" shall mean the 2005 HCMLP Long-Term Incentive Plan.

"Sierra Verde" shall mean Sierra Verde, LLC.

"**HERA Agreement**" means the Highland Employee Retention Assets Limited Liability Company Agreement.

"**Second Amended HERA Agreement**" means Second Amended and Restated HERA Limited Liability Company Agreement.

QUESTION NO. 1

Did Daugherty fail to comply with his Employment Agreement or with the Buy-Sell Agreement?

Daugherty failed to comply with either agreement if he used or disclosed Confidential Information belonging to Highland or its affiliates, or failed to immediately return Confidential Information upon the conclusion of his employment.

"Confidential Information" means (i) information concerning customers, clients, marketing, business and operational methods of Highland and/or its affiliates and their customers or clients, contracts, financial or other data, technical data, email and other correspondence or any other confidential or proprietary information possessed, owned or used by Highland and/or its affiliates; (ii) business, pricing and management methods and information; (iii) finances, strategies, systems, research, plans, reports, recommendations and conclusions; (iv) tear sheets, industry comparative analysis and Collateralized Loan Obligation (CLO) and other structured products; (v) names, arrangements with, or other information relating to, Highland's and/or its affiliates' customers, clients, suppliers, financiers, owners, representatives and other persons who have business relationships with any of the Applicable Entities or who are prospects for business relationships with any of the Applicable Entities; and (vi) any matter or thing obtained or ascertained by Daugherty through his association with Highland and/or its affiliates, the use or disclosure of which might reasonably be construed to be contrary to the best interests of Highland and/or its affiliates.

Daugherty also failed to comply with the Employment Agreement if he failed to return any other property belonging to Highland or its affiliates immediately upon the conclusion of his employment.

Answer "Yes" or "No" for each of the following:

a. Employment Agreement: Confidential Information Yes

b. Employment Agreement: Other Property Yes

c. Buy-Sell Agreement Yes

If you answered "Yes" to any part of Question No. 1, then answer the corresponding part(s) of the following question. Otherwise, do not answer the following question.

QUESTION NO. 2

Was Daugherty's failure to comply excused?

Failure to comply by Daugherty is excused if:

(1) Highland waived compliance with the Employment Agreement and the Buy-Sell Agreement. Waiver is an intentional surrender of a known right or intentional conduct inconsistent with claiming the right;

or

(2) Highland (a) by words or conduct made a false representation or concealed material facts with knowledge of the facts or with knowledge or information that would lead a reasonable person to discover the facts, and with the intention that Daugherty would rely on the false representation or concealment in acting or deciding not to act; and (b) Daugherty did not know and had no means of knowing the real facts and relied to his detriment on the false representation or concealment of material facts.

Answer "Yes" or "No" for each of the following:

a. Employment Agreement: Confidential Information NO

b. Employment Agreement: Other Property NO

c. Buy-Sell Agreement NO

QUESTION NO. 3

Did Highland fail to comply with the Employment Agreement?

Highland failed to comply with the Employment Agreement if it failed to pay Daugherty any amount to which he was entitled under any other written agreement with Highland after Daugherty fulfilled all conditions precedent to receiving those amounts.

Highland failed to comply with the Employment Agreement if it failed to pay Daugherty severance pay after Daugherty fulfilled all conditions precedent to receiving severance pay.

A "condition precedent" is an event that must happen or be performed before a right can accrue to enforce an obligation.

Answer "Yes" or "No" for each of the following:

a. the LTIP Plan. NO

b. the HERA Agreement. NO

c. severance pay. NO

If you answered "No" to either Question No. 2(a) or 2(b) and "Yes" to any part of Question No. 3, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 4

Who failed to comply with the Employment Agreement first?

Answer "Daugherty" or "Highland."

Answer: N/A

If you answered (I) "No" to Question No. 2(a) or 2(b) and "No" all of Question No. 3, or (II) if you answered "Daugherty" to Question No. 4, then answer the following question relating to the Employment Agreement.

If you answered "No" to Question 2(c), then answer the corresponding part of Question No. 5 relating to the Buy-Sell Agreement.

Otherwise, do not answer the following question.

QUESTION NO. 5

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Highland for its damages, if any, that resulted from Daugherty's failure to comply with his Employment Agreement or the Buy-Sell Agreement?

Consider the following elements of damage, if any, and none other. Answer separately in dollars and cents for damages, if any. Do not add any amount for interest on damages, if any.

	Employment Agreement	**Buy-Sell Agreement**
Lost profits for lost business activity that, but for Daugherty's failure to comply with the Agreement, Highland would naturally, probably, and foreseeably have obtained —		
(1) incurred in the past	$ Ø	$ Ø
(2) in the future	$ Ø	$ Ø

If you answered any part of Question No. 5, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 6

What is the reasonable fee for the necessary services of Highland's attorneys in this case, stated in dollars and cents?

You are instructed to limit your answers to fees attributable to legal services performed relating to the claims in Questions 1 through 5 only.

Factors to consider in determining a reasonable attorneys' fees award include:

- the time and labor involved, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly;
- the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;
- the fee customarily charged in the locality for similar legal services;
- the amount involved and the results obtained;
- the time limitations imposed by the client or the circumstances;
- the nature and length of the professional relationship with the client;
- the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

Answer with an amount for each of the following:

a. For representation in the trial court. Answer: $ 2.8 Million

b. For representation through appeal to the court of appeals. Answer: $ 0

c. For representation at the petition for review stage in the Supreme Court of Texas. Answer: $ 0

d. For representation at the merits briefing stage in the Supreme Court of Texas. Answer: $ 0

If you answered (I) any part of Question No. 3 "Yes" and did not answer Question No. 4, or (II) if you answered "Highland" to Question No. 4, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 7

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Daugherty for his damages, if any, that resulted from Highland's failure to comply with the Employment Agreement?

Consider the following elements of damage, if any, and none other. Answer separately in dollars and cents for damages, if any. Do not add any amount for interest on damages, if any.

a. The value of Daugherty's severance pay.	$_____
b. The value of Daugherty's interest in the LTIP Plan.	$_____
c. The value of Daugherty's interest in HERA.	$_____

If you answered any part of Question No. 7, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 8

What is the reasonable fee for the necessary services of Daugherty's attorneys in this case, stated in dollars and cents?

You are instructed to limit your answers to fees attributable to legal services performed relating to the claims in Questions 1 through 4 and 7 only.

Factors to consider in determining a reasonable attorneys' fees award include:

- the time and labor involved, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly;
- the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;
- the fee customarily charged in the locality for similar legal services;
- the amount involved and the results obtained;
- the time limitations imposed by the client or the circumstances;
- the nature and length of the professional relationship with the client;
- the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

Answer with an amount for each of the following:

a. For representation in the trial court. Answer: $_____

b. For representation through appeal to the court of appeals. Answer: $_____

c. For representation at the petition for review stage in the Supreme Court of Texas. Answer: $_____

d. For representation at the merits briefing stage in the Supreme Court of Texas. Answer: $_____

QUESTION NO. 9

Did Daugherty fail to comply with his fiduciary duty to Highland?

As an employee of Highland, Daugherty owed a fiduciary duty of good faith, honesty, and loyalty to Highland.

To prove Daugherty failed to comply with his fiduciary duty, Highland must show—

(1) Daugherty did not make reasonable use of the confidence that Highland placed in him; or

(2) Daugherty failed to act in the utmost good faith or exercise the most scrupulous honesty toward Highland; or

(3) Daugherty placed his own interests before Highland's, used the advantage of his position to gain a benefit for himself at Highland's expense, or placed himself in a position where his self-interest might conflict with his obligations as a fiduciary.

Answer "Yes" or "No": Yes

QUESTION NO. 10

Did Daugherty misappropriate any trade secrets from Highland?

"Misappropriation" is the unauthorized use or disclosure of a party's trade secrets without the party's authorization.

A "trade secret" is any formula, pattern, device, information, or combination of any of the foregoing that is used in a business and that gives the owner an opportunity to obtain an advantage over his competitors who do not know or use it.

In considering whether something is a trade secret, you should consider (1) the extent to which the information is known outside of Highland's business; (2) the extent to which it is known by employees and others involved in Highland's business; (3) the extent of the measures taken by Highland to guard the secrecy of the information; (4) the value of the information to Highland and its competitors; (5) the amount of effort or money expended by Highland in developing that information; (6) the ease or difficulty with which the Highland information could be properly acquired or duplicated by others. A trade secret does not have to satisfy all six factors.

"Use" means a commercial use by which a party seeks to profit.

Answer "Yes" or "No": NO

QUESTION NO. 11

Did Daugherty disparage Highland's business?

Daugherty disparaged Highland's business if he published a disparaging false statement about the business, and (1) when he published the statement, he knew the falsity of the statement or acted with reckless disregard of whether the statement was false, or acted with ill will or intended to interfere with Highland's economic interest; and (2) his publication of the statement played a substantial part in inducing others not to do business with Highland and resulted in a specific pecuniary loss to Highland.

A statement is "published" if it is intentionally communicated to a person other than Highland who is capable of understanding its meaning.

Answer "Yes" or "No" for each statement listed below.

a. Highland had intentionally made the Crusader Fund illiquid to the detriment of investors. Answer: NO

b. Highland was intentionally manipulating the net asset values of the Crusader Fund's assets. Answer: NO

c. Highland was intentionally deviating from the Crusader Fund's mandates. Answer: NO

d. Highland had neither the desire nor the capital to support CCS Medical. Answer: NO

If you answered "Yes" to any part of Question No. 9, 10, or 11, then answer the corresponding part(s) of the following question. Otherwise, do not answer the following question.

QUESTION NO. 12

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Highland for its damages, if any, that were proximately caused by such conduct?

Consider the following elements of damage, if any, and none other.

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event.

Answer separately in dollars and cents for damages, if any. Do not add any amount for interest on damages, if any.

	Breach of Fiduciary Duty	**Misappropriation**	**Disparagement**
Lost profits for lost business activity			
(1) incurred in the past	$ 0	$	$
(2) in the future	$ 0	$	$

QUESTION NO. 13

Did Dondero or Sierra Verde fail to comply with the Sierra Verde Limited Liability Company Agreement?

Dondero and Sierra Verde failed to comply with the Sierra Verde Limited Liability Company Agreement if Dondero, as Manager of Sierra Verde, lacked express authority under the Sierra Verde Limited Liability Company Agreement to rescind the Services Agreements and Compensation Agreements with Cornerstone and Trussway.

Dondero and Sierra Verde failed to comply with the Sierra Verde Limited Liability Company Agreement if they failed to comply with the implied covenant of good faith and fair dealing.

Every contract contains implied covenants from the parties of good faith and fair dealing. In determining whether a party is acted in good faith and fair dealing, you must consider what the parties would have agreed to themselves had they considered the issue in their original bargaining positions at the time of contracting. In other words, is it clear from what was expressly agreed upon that the parties who negotiated the express terms of the contract would have agreed to proscribe the act later complained of as a breach of the implied covenant of good faith and fair dealing—had they thought to negotiate with respect to that matter.

"Good faith" means faithfulness to the scope, purpose, and terms of the parties' contract. "Fair dealing" means a commitment to deal "fairly" in the sense of consistently with the terms of the parties' agreement and its purpose.

An implied covenant of good faith and fair dealing requires that a party refrain from arbitrary or unreasonable conduct which has the effect of preventing the other party to the contract from receiving the fruits of his bargain. When exercising a discretionary right, a party to the contract must exercise its discretion reasonably.

Answer "Yes" or "No" for each of the following.

	Express Authority	**Implied Covenant of Good Faith and Fair Dealing**
a. Dondero	NO	NO
b. Sierra Verde	NO	NO

If you answered "Yes" to any part of Question No. 13, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 14

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Daugherty for his damages, if any, that resulted from such failure to comply?

"Fair market value" is typically defined as the amount a willing buyer, who desires to buy but is under no obligation to buy, would pay to a willing seller, who desires to sell but is under no obligation to sell.

Answer separately in dollars and cents, if any.

a. Fair market value of Daugherty's Sierra Verde Units at the time of rescission. Answer: _____

b. Fair market value of Daugherty's Sierra Verde Units at the highest intermediate value between October 2011 and the time of trial. Answer: _____

QUESTION NO. 15

Did Dondero, as the Manager of Sierra Verde, breach his fiduciary duty, if any, to Daugherty?

A fiduciary owes the duties of care, loyalty, and to act in good faith.

The duty of loyalty mandates that the best interests of the company and its shareholders takes precedence over any interest possessed by a director, officer or controlling shareholder and not shared by the stockholders generally.

The duty of care requires that the directors individually and the board collectively inform themselves fully and in a deliberate manner before voting as a board upon a transaction.

A failure to act in good faith may be shown: (1) where the fiduciary intentionally acts with a purpose other than that of advancing the best interests of the company; (2) where the fiduciary acts with the intent to violate applicable positive law; or (3) where the fiduciary intentionally fails to act in the face of a known duty to act, demonstrating a conscious disregard for his duties.

Answer "Yes" or "No."

Answer: NO

If you answered "Yes" to Question No. 15, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 16

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Daugherty for his damages, if any, that were proximately caused by such conduct?

"Fair market value" is typically defined as the amount a willing buyer, who desires to buy but is under no obligation to buy, would pay to a willing seller, who desires to sell but is under no obligation to sell.

Answer separately in dollars and cents, if any.

a. Fair market value of Daugherty's Sierra Verde Units at the time of rescission. Answer: _____

b. Fair market value of Daugherty's Sierra Verde Units at the highest intermediate value between October 2011 and the time of trial. Answer: _____

QUESTION NO. 17

Did HERA fail to comply with the HERA Agreement?

HERA failed to comply with the HERA Agreement by amending the HERA Agreement to include Section 12.1 of the Second Amended HERA Agreement if the Second Amended HERA Agreement divested Daugherty's Series A Preferred Units.

HERA failed to comply with the HERA Agreement if it failed to comply with the implied covenant of good faith and fair dealing by amending the HERA Agreement to include Section 12.1 of the Second Amended HERA Agreement.

Do not consider any actions taken by HERA after February 16, 2012, when the Second Amended and Restated Limited Liability Company Agreement of HERA was adopted when determining if HERA failed to comply with the HERA Agreement.

Every contract contains implied covenants from the parties of good faith and fair dealing. In determining whether a party is acted in good faith and fair dealing, you must consider what the parties would have agreed to themselves had they considered the issue in their original bargaining positions at the time of contracting. In other words, is it clear from what was expressly agreed upon that the parties who negotiated the express terms of the contract would have agreed to proscribe the act later complained of as a breach of the implied covenant of good faith and fair dealing—had they thought to negotiate with respect to that matter.

"Good faith" means faithfulness to the scope, purpose, and terms of the parties' contract. "Fair dealing" means a commitment to deal "fairly" in the sense of consistently with the terms of the parties' agreement and its purpose.

An implied covenant of good faith and fair dealing requires that a party refrain from arbitrary or unreasonable conduct which has the effect of preventing the other party to the contract from receiving the fruits of his bargain. When exercising a discretionary right, a party to the contract must exercise its discretion reasonably.

Answer "Yes" or "No" for each of the following.

	Divesting by Section 12.1	**Implied Covenant of Good Faith and Fair Dealing by Section 12.1**
HERA	NO	yes

If you answered "Yes" to any part of Question No. 17, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 18

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Daugherty for his damages, if any, that resulted from such failure to comply?

Answer separately in dollars and cents, if any.

Fair market value of Daugherty's HERA Units. Answer: 2.6 Million

QUESTION NO. 19

Did Boyce or Britain, in bad faith, fail to comply with their implied contractual covenant of good faith and fair dealing owed to HERA by amending the HERA Agreement to include the dispute resolution provision in Section 12.1 of the HERA Agreement or by directing the Offer to Purchase to be sent to minority holders of units in HERA?

Consider the following additional instructions in answering:

Bad faith means that a fiduciary intentionally acts with a purpose other than that of advancing the best interests of the company, or the fiduciary intentionally fails to act in the face of a known duty to act, demonstrating a conscious disregard for his duties to the company.

A party does not act in bad faith by relying on contract provisions for which that party bargained where doing so simply limits advantages to another party.

Do not consider any actions taken by Boyce or Britain after the Second Amended and Restated Limited Liability Company Agreement of HERA was adopted or the Offer to Purchase was sent to minority holders of units in HERA when determining if Boyce or Britain failed to comply with their implied contractual covenant of good faith and fair dealing owed to HERA.

Answer "Yes" or "No" for each of the following parties.

a. Boyce

Answer: NO

b. Britain

Answer: NO

If you answered "Yes" to any part of Question No. 19, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 20

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate HERA for damages, if any, that were proximately caused by such conduct?

Answer separately in dollars and cents, if any.

Fair market value of Daugherty's HERA Units. Answer: _____

QUESTION NO. 21

Did Dondero or Highland publish a defamatory statement concerning Daugherty that was false at the time it was made?

"Publish" means intentionally or negligently to communicate the matter to a person other than Daugherty who is capable of understanding its meaning.

"Defamatory" means an ordinary person would interpret the statement in a way that tends to injure a living person's reputation and thereby expose the person to public hatred, contempt or ridicule, or financial injury or to impeach the person's honesty, integrity, virtue, or reputation. In deciding whether a statement is defamatory, you must construe the statement as a whole and in light of the surrounding circumstances based upon how a person of ordinary intelligence would perceive it.

"False" means that a statement is not literally true or not substantially true. A statement is not "substantially true" if, in the mind of the average person, the gist of the statement is more damaging to the person affected by it than a literally true statement would have been.

Answer "Yes" or "No" for each of the following.

	Dondero	**Highland**
a. Daugherty left Highland for lifestyle reasons	yes	yes
b. Daugherty left Highland because he was burned out	yes	yes

If you answered "Yes" to any part of Question No. 21, then answer the corresponding part(s) of the following question. Otherwise, do not answer the following question.

QUESTION NO. 22

Were the statements privileged?

> A statement is privileged if the party making the statement reasonably believes that the party to whom the statement is made has a common interest in the particular subject matter of the statement. The common interest may be a financial, moral, social, or legal interest.

Answer "Yes" or "No" for each of the following.

	Dondero	**Highland**
a. Daugherty left Highland for lifestyle reasons	yes	yes
b. Daugherty left Highland because he was burned out	yes	yes

If you answered "No" to any part of Question No. 22, then answer the corresponding part(s) of the following question. Otherwise, do not answer the following question.

QUESTION NO. 23

Did one or more of the following parties know or should have known, in the exercise of ordinary care, that the statements contained in Question No. 21 were false and had the potential to be defamatory?

> "Ordinary care" concerning the truth of the statement and its potential to be defamatory means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

Answer "Yes" or "No" for each of the following.

	Dondero	**Highland**
a. Daugherty left Highland for lifestyle reasons		
b. Daugherty left Highland because he was burned out		

If you answered "Yes" to any part of Question No. 22, then answer the corresponding part of the following question. Otherwise, do not answer the following question.

QUESTION NO. 24

Do you find by clear and convincing evidence that, at the time Dondero or Highland made the statement or statements in Question No. 21—

1. Highland or Dondero knew it was false as it related to Daugherty, or

2. Highland or Dondero made the statement with a high degree of awareness that it was probably false, to an extent that Highland or Dondero had serious doubts as to the truth of the statement?

"Clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the jury a firm belief or conviction as to the truth of the allegations sought to be established.

Answer "Yes" or "No" for each of the following.

	Dondero	**Highland**
a. Daugherty left Highland for lifestyle reasons	yes	yes
b. Daugherty left Highland because he was burned out	yes	yes

If you answered "Yes" to any part of Question No. 23 or any part of Question No. 24, then answer the corresponding parts of the following question. Otherwise, do not answer the following question.

QUESTION NO. 25

What sum of money, if paid now in cash, would fairly and reasonably compensate Daugherty for his injuries, if any, that were proximately caused by the statements?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Answer separately in dollars and cents for damages if any.

	Lost Earning Capacity Sustained in the Past	**Loss of earning capacity that, in a reasonable probability, Daugherty will sustain in the future.**
a. Daugherty left Highland for lifestyle reasons	0	0
b. Daugherty left Highland because he was burned out	0	0

Verdict Certificate

Check one:

_____ Our verdict is unanimous. All twelve of us have agreed to each and every answer. The presiding juror has signed the certificate for all twelve of us.

_____ _____
Signature of Presiding Juror Printed Name of Presiding Juror

_____ Our verdict is not unanimous. Eleven of us have agreed to each and every answer and have signed the certificate below.

__X__ Our verdict is not unanimous. Ten of us have agreed to each and every answer and have signed the certificate below.

	Signature	Name Printed
1.	Janice Richardson	Janice Richardson
2.	Casey Brown	Casey Brown
3.	Patricia Ramos	PATRICIA RAMOS
4.	Betty Keefe	Betty Keefe
5.		JOCELYN JESUS
6.	Tara Smith	Tara Smith
7.	James B. Chase	JAMES B. CHASE
8.		Bradley Bunch
9.	Mary Massey	Mary Massey
10.	Roberta F. Marshall	Roberta F. Marshall
11.		

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

In Re: Highland Capital Management, L.P

§

§ Case No 19−34054−SGJ-11

Patrick Daugherty - Appellant §

25-03055

vs §

3:26-CV-02664-S

Highland Capital Management, L.P., et al - Appellee

§

§

[138] Judgment. Entered on 8/7/2026

APPELLANT RECORD

VOLUME 7

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055-bwo
Defendant.	§	
	§	INDEX

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the July 24, 2026 *Judgment and Memorandum Opinion* [Docket Nos. 138, 139 in Adversary No. 25-03055-bwo]. *See Notice of Appeal* [Docket No. 142 in Adversary No. 25-03055-bwo].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court erred in disallowing Daugherty's Reserved Claim based on the Employment Agreement's termination provisions, when the Court itself found the 2009 Compensation Statement was incorporated into the Employment Agreement and resolved its ambiguity in Daugherty's favor, concluding that Highland Capital Management, L.P. ("Highland") intended to compensate Daugherty for any material deviation in his 2008 tax refund.

2. Whether the Bankruptcy Court erred in applying the "no further liability or obligation" language of Sections 4.5 and 4.6 of the Employment Agreement to extinguish Daugherty's compensation entitlement under the 2009 Compensation Statement, when that language pertains to severance contingent upon execution of a separation agreement and not to earned compensation that accrued during Daugherty's active employment.

3. Whether the Bankruptcy Court erred in holding that James Dondero's oral promises to cover Daugherty's contingent tax liability were unenforceable under Texas's statute of frauds, Tex. Bus. & Com. Code § 26.01, when Highland had a main purpose of its own in making the promise and when the Court failed to consider Daugherty's continued employment and forbearance as adequate consideration.

4. Whether the Bankruptcy Court erred in denying Daugherty's counterclaim for specific performance of the Settlement Agreement's books-and-records provision by construing that provision through the statutory categories of 6 Del. C. § 18-305(a), rather than by the plain meaning of the negotiated Settlement Agreement requiring Highland to "transfer its *interests* in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims," including "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system."

5. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of

the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

6. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, inter alia, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

Vol. 1
000001
000008

1. Notice of Appeal for Adversary No. 25-03055-bwo [Docket No. 142].

2. The Judgment Order or Decree appealed from: July 24, 2026 – Judgment [Docket No. 138].

000010

3. July 24, 2026 – Memorandum of Opinion [Docket No. 139].

000035

4. Docket Sheet for Adversary Case No. 25-03055-bwo kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 25-03055-bwo:

Vol. 2

Filing Date	Docket No.	Description
05/02/2025	1	(16 pgs; 3 docs) Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/05/2025	2	(4 pgs; 2 docs) Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3	(2 pgs) Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre-trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us-

000053
000064
000073

Vol. 2

		courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025	4	(4 pgs) Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025	5	(13 pgs; 2 docs) Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025	6	(5 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025	7	(10 pgs) Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025	8	(12 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025	9	(13 pgs; 2 docs) Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025	10	(13 pgs; 2 docs) Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025	11	(43 pgs; 5 docs) Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

000076
000079
000092
000097
000107
000119
000132
000145

Vol. 2

07/28/2025 000188	12	(4 pgs) Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025 000192	13	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025 000195	14	(6 pgs; 2 docs) Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025 000201	15	(13 pgs) Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025 000214	16	(5 pgs) Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)

Vol. 2

08/18/2025 000219	17	(3 pgs) Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025 000222	18	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025 000225	19	(225 pgs; 12 docs) Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)
Vol. 3 09/04/2025 000450	20	(48 pgs; 2 docs) Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/05/2025 000498	23	(3 pgs) Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025 000501	24	(5 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)

09/19/2025	25	(9 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
09/23/2025	27	(13 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
09/23/2025	28	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
09/23/2025	30	(6 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02584-E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
09/25/2025	31	(7 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
09/25/2025	32	(4 pgs) BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
09/26/2025	33	(44 pgs; 2 docs) Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
09/29/2025	34	(1 pg) Request for Transcript regarding a hearing held on 9/4/2025. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

vol. 3

09/30/2025 000592	35	(36 pgs) Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025 000628	36	(6 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025 000634	37	(14 pgs) Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025 000648	38	(11 pgs) Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025 000659	39	(45 pgs; 2 docs) Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)

Vol. 3

000704 10/03/2025	40	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
000707 10/03/2025	41	(6 pgs) Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
000713 10/04/2025	42	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
000729 10/04/2025	43	(13 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)

Vol 4

000742 10/06/2025	44	(29 pgs) Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
000771 10/09/2025	45	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
000774 10/09/2025	46	(3 pgs) Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Morris, John)
000777 10/09/2025	47	(3 pgs) Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
000780 10/09/2025	48	(3 pgs) Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Demo, Gregory)
000783 10/13/2025	49	(9 pgs) Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related

		documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50	(1 pg) Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	51	(6 pgs) Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53	(1 pg) Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25-cv-02584-E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54	(1 pg) Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25-cv-02584-E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55	(3 pgs) Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56	(8 pgs) Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57	(7 pgs) DISTRICT COURT Stipulation concerning supplement to record on appeal re: 3:25-cv-02584-E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of

Vol 4

		issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58	ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25-03055, effective immediately. The Bankruptcy Clerk of Court will re-assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025		Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59	(11 pgs) Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60	(14 pgs; 2 docs) Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61	(156 pgs; 7 docs) Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62	(3 pgs) Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).

000819

000830

000844

Vol. 5

001000

Vol 5	12/29/2025	63	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
001003	12/30/2025	64	(19 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
001006	12/30/2025	65	(3 pgs) Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
001025	12/30/2025	66	(14 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
001028	12/31/2025	67	(14 pgs) Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
001042	01/02/2026	68	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
001056	01/05/2026	69	(12 pgs) Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001072	01/05/2026	70	(10 pgs; 2 docs) Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
001084	01/08/2026	71	(10 pgs) Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion*
001094			

Case 3:26-cv-02664-S Document 12-7 Filed 10/27/26 Page 14 of 259 PageID 2161

Vol 5			*to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
001104	01/12/2026	72	(4 pgs) Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff

Vol. 5

		Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026 001108	73	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/15/2026 001111	74	(2 pgs) Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)
01/17/2026 001113	76	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
01/23/2026 001117	77	(16 pgs) Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
01/25/2026 001133	78	(18 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
01/26/2026 001151	79	(13 pgs) Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
01/26/2026 001164	80	(13 pgs) Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
01/28/2026 001179	81	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman

Vol 5

		Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026	82	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/09/2026	84	(4 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026	85	(7 pgs) Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026	86	(9 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026	87	(3 pgs) Notice to take deposition of T.J. Liles-Tims filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
02/27/2026	88	(2 pgs) Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026	89	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)

001192
001207
001211
001218
001227
001230
001232

03/10/2026	91	(3 pgs) Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026	93	(5 pgs) Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026	94	(8 pgs) Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026	95	(3 pgs) Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026	96	(10 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)
04/02/2026	97	(8 pgs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)

Vol. 5

001273 04/02/2026	98	(8 pgs) Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
001281 04/08/2026	99	(9 pgs) Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001290 04/10/2026	100	(28 pgs) Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
001318 04/13/2026	101	(28 pgs) Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
001346 04/13/2026	102	(21 pgs) Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
001367 04/14/2026	103	(8 pgs) Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
001375 04/14/2026	104	(8 pgs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
001383 04/15/2026	105	(1782 pgs; 95 docs) Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-01 # 2 Exhibit PD-02 # 3 Exhibit PD-03 # 4 Exhibit PD-04 # 5 Exhibit PD-05 # 6 Exhibit PD-06 # 7 Exhibit PD-07 # 8 List of 20 Largest Creditors PD-08 # 9 Exhibit PD-09 # 10 Exhibit PD-10 # 11 Exhibit PD-11 # 12 Exhibit PD-12 # 13 Exhibit PD-13 # 14 Exhibit PD-14 # 15 Exhibit PD-16 # 16 Exhibit PD-16 # 17 List of 20 Largest Creditors PD-17 # 18 Exhibit PD-18 # 19 Exhibit PD-19 # 20 Exhibit PD-20 # 21 Exhibit PD-21 # 22 Exhibit PD-22 # 23 Exhibit PD-23 # 24 Exhibit PD-24 # 25 Exhibit PD-25 # 26 Exhibit PD-26 # 27 Exhibit PD-27 # 28 Exhibit PD-28 # 29 Exhibit PD-29 # 30 Exhibit PD-30 # 31 Exhibit PD-31 # 32 Exhibit PD-32 # 33 Exhibit PD-33 # 34 Exhibit PD-34 # 35 Exhibit PD-35 # 36 Exhibit PD-36 # 37 Exhibit PD-37 # 38 List of 20 Largest Creditors PD-38 # 39 List of 20 Largest Creditors PD-39 # 40 Exhibit PD-40 # 41 List of 20 Largest Creditors PD-41 # 42 Exhibit PD-42 # 43 Exhibit PD-43 # 44 Exhibit PD-44 # 45 Exhibit PD-45 # 46 Exhibit PD-46 # 47 Exhibit PD-47 # 48 Exhibit PD-48 # 49 Exhibit PD-49 # 50 Exhibit PD-50 # 51 Exhibit PD-51 # 52 Exhibit PD-52 # 53 Exhibit PD-53 # 54 Exhibit PD-54

Vol 5 001383		# 55 Exhibit PD-55 # 56 Exhibit PD-56 # 57 Exhibit PD-57 # 58 Exhibit PD-58 # 59 Exhibit PD-59 # 60 Exhibit PD-60 # 61 Exhibit PD-61 # 62 Exhibit PD-62 # 63 Exhibit PD-63 # 64 Exhibit PD-64 # 65 Exhibit PD-65 # 66 Exhibit PD-66 # 67 Exhibit PD-67 # 68 Exhibit PD-68 # 69 Exhibit PD-69 # 70 Exhibit PD-70 # 71 Exhibit PD-71 # 72 Exhibit PD-72 # 73 Exhibit PD-73 # 74 Exhibit PD-74 # 75 Exhibit PD-75 # 76 Exhibit PD-76 # 77 Exhibit PD-77 # 78 Exhibit PD-78 # 79 Exhibit PD-79 # 80 Exhibit PD-80 # 81 Exhibit PD-81 # 82 Exhibit PD-82 # 83 Exhibit PD-83 # 84 Exhibit PD-84 # 85 Exhibit PD-85 # 86 Exhibit PD-86 # 87 Exhibit PD-87 # 88 Exhibit PD-88 # 89 Exhibit PD-89 # 90 Exhibit PD-90 # 91 Exhibit PD-91 # 92 Exhibit PD-92 # 93 Exhibit PD-93 # 94 Exhibit PD-94) (York, Andrew)
001385	04/15/2026 106	(11 pgs) Joint Motion to file document under seal. *Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (York, Andrew)
Vol. 6 001396 Thru Vol 7	04/15/2026 107	(696 pgs; 66 docs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
Vol 7 002092	04/15/2026 108	(5 pgs) Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
002097	04/15/2026 109	SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital

Vol. 7

		Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	110	SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	111	SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	112	SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	113	SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	114	SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	115	SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	116	SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)

04/15/2026	117	SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118	SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119	SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120	SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121	SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122	SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123	SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124	(30 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)101 Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff

		Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	126	(64 pgs; 5 docs) Support/supplemental document *Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-95 # 2 Exhibit PD-96 # 3 Exhibit PD-97 # 4 Exhibit PD-98) (York, Andrew)
04/16/2026	127	(3 pgs) Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128	(15 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129	(7 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130	(9 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	132	(1 pg) Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133	(1 pg) Request for Transcript regarding a hearing held on 4/17/2026. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

05/18/2026	135	(327 pgs) Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken under advisement; each side to file proposed Findings of Fact and Conclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
06/05/2026	136	(47 pgs) Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
06/05/2026	137	(19 pgs) Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
07/24/2026	138	(2 pgs) Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
07/24/2026	139	(25 pgs) Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
07/26/2026	140	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
07/26/2026	141	(27 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
08/07/2026	142	(7 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
08/11/2026	144	(9 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation

		due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146	(4 pgs) DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26-cv-02664-S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147	(4 pgs) BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver of, any and all rights, remedies, challenges and objections.

Respectfully submitted this 2nd day of September, 2026,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of September 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT 45

ORIGINAL
FILED
12 MAY 22 PM 4:20
ANGELICA HERNANDEZ DEPUTY
DALLAS COUNTY, TEXAS
GARY FITZSIMMONS DISTRICT CLERK
5-CIT atty
def $100

NO. 12-04005

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**IN THE DISTRICT COURT OF**
Plaintiff and Counter-Defendant,	§	
v.	§	
PATRICK DAUGHERTY,	§	
Defendant and Counter-Plaintiff,	§	**DALLAS COUNTY, TEXAS**
v.	§	
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	
Third-Party Defendants.	§	**68th JUDICIAL DISTRICT**

DEFENDANT'S ORIGINAL ANSWER, COUNTERCLAIM AND THIRD-PARTY PETITION

COMES NOW, Patrick Daugherty ("Daugherty") and files this his Original Answer, Counterclaim and Third-Party Petition and would respectfully show the Court as follows:

I.

GENERAL DENIAL

1. Daugherty generally denies each and every allegation contained in Highland Capital Management, L.P.'s ("HCM" or "Defendant") Original Petition and demands strict proof thereof.

II.

COUNTERCLAIM AND THIRD-PARTY PETITION

PARTIES

2. Patrick Daugherty is an individual who resides in Dallas County, Texas.

3. Counterclaim Defendant Highland Capital Management, L.P. has already entered an appearance in this cause. Therefore, no further service of process is required at this time.

4. Third-Party Defendant Sierra Verde, LLC ("Sierra Verde") is a Delaware limited liability company that maintains its principal office in Dallas, Texas and may be served with process through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

5. Third-Party Defendant Highland Employee Retention Assets LLC ("HERA") is a Delaware limited liability company that maintains its principal office in Dallas, Texas and may be served with process through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

6. Third-Party Defendant James Dondero ("Dondero") is a Texas resident and may be served with process at 3807 Miramar, Dallas, Texas 75205, or 300 Crescent Court, Suite 700, Dallas, Texas 75201, or wherever he may be found.

7. Third-Party Defendant Patrick Boyce ("Boyce") is a Texas resident and may be served with process at 6617 Muirfield Circle, Plano, Texas 75093, or 300 Crescent Court, Suite 700, Dallas, Texas 75201, or wherever he may be found.

8. Third-Party Defendant William L. Britain ("Britain") is a Texas resident and may be served with process at 5603 Caruth Blvd., Dallas, Texas 75209, or 300 Crescent Court, Suite 700, Dallas, Texas 75201, or wherever he may be found.

III.

VENUE AND JURISDICTION

9. This Court has jurisdiction over this matter under the laws and Constitution of the State of Texas. The amount in controversy, exclusive of interest and costs, is within the jurisdictional limits of this Court.

10. Venue is proper in Dallas County, Texas pursuant to Tex. Civ. Prac. & Rem. Code §§ 15.002(a)(1) and (a)(2), because all or a substantial part of the events or omissions giving rise to the claims in this action occurred in Dallas County, Texas, and all of the Defendants either reside or had their principal place of business in Dallas County, Texas at the time the causes of action accrued.

IV.

DISCOVERY PLAN

11. Discovery is to be conducted pursuant to a Level III Discovery Control Plan Scheduling Order in accordance with Texas Rules of Civil Procedure 190.4.

V.

FACTUAL BACKGROUND

12. In April 1998, Daugherty was hired by HCM as a Portfolio Analyst. He reported to Dondero and his duties initially consisted of underwriting and performing credit analysis for a portfolio of corporate loans held by investment vehicles known as collateralized loan obligations

("CLOs"). Daugherty prepared annual self-reviews through 2008, where his yearly performance was evaluated and benchmarked against other employees within the firm. These evaluations reflected his strong performance, and he was promoted several times to more senior positions as his responsibilities and compensation grew. After 2008, Daugherty was no longer required to prepare self-reviews.

13. Through his tenure at HCM, Daugherty was promoted from Portfolio Analyst to Senior Analyst to Portfolio Manager to Senior Portfolio Manager to Team Leader to Head of Distressed to Head of Distressed and Special Situations to Head of Distressed, Special Situations and Private Equity. Daugherty founded HCM's profitable stressed, distressed and private equity lines of business. He also served twice as General Counsel of HCM during his successful career there.

14. During Daugherty's employment, he entered into various agreements with HCM, including an Amended Employment Agreement, effective December 31, 2004, which purports to contain a non-competition provision and various other restrictive covenants (the "Employment Agreement").

15. During Daugherty's annual compensation review, he received a Compensation and Benefits Statement that detailed various forms of earnings and awards granted to Daugherty as a result of his performance at HCM over the previous year. These awards included cash and incentive-based compensation in the form of equity or equity-like options that served to track the performance of reference investments which Dondero and HCM deemed important. The equity and equity-like options were issued under various tax based structures and were generally

referred to as the STIP program, the Option-it program and the Vessel program (also known as the LTIP/Vessel program). The LTIP/Vessel programs included HERA and Sierra Verde.

16. The STIP consisted of reference positions in the Highland Crusader Fund, L.P., Highland Real Estate Fund 2002-A, L.P., Highland CDO and Structured Products Fund and the Highland Credit Strategies Fund, L.P.

17. The Option-it program consisted of reference positions in the Highland Crusader Fund, L.P., Highland Real Estate Fund 2002-A, L.P., Highland CDO and Structured Product Fund, Highland Equity Focus Fund, L.P. and the Highland Credit Strategies Fund-HCF.

18. The LTIP/Vessel programs included at least two valuable, vested awards for Daugherty: 1) the HERA program (the Amended and Restated Limited Liability Company Agreement between HERA and HCM), which included most HCM employees; and 2) the Sierra Verde program, which included Daugherty's private equity team.

19. The HERA program consisted of limited partnership grants in the Restoration Capital Partners, L.P. ("Restoration"), HE Sugarland Project, LLC., and the Highland CLO Value Fund, L.P.

20. The Sierra Verde vessel, an entity formed in December 2010 to hold and distribute assets, was a program conceived to retain, reward and incentivize Daugherty and his private equity team, which received equity and options in Cornerstone Healthcare Group Holdings, Inc. ("Cornerstone") and Trussway Holdings, Inc.

21. For high ranking employees ("Partners"), HCM also awarded LTIP interests that tracked the performance of the Highland Partnership. This program was separate from the LTIP/Vessel program. The LTIP program (the 2005 HCMLP Long-Term Incentive Plan) is an

incentive plan created for non-voting partners in HCM, a partnership controlled by Strand Advisors which is controlled by affiliates of Dondero. Daugherty also had an interest in the Defined Benefit Pension Plan.

22. Contrary to HCM's assertions, which characterize Daugherty as some "unmanageable, erratic and insubordinate" or brain-damaged[1] employee, Daugherty was dedicated, hard-working, healthy and consistently ranked and paid as the top performer through the 2011 bonus year. In fact, Daugherty was held out by Dondero as the model manager which others should aspire to emulate. Dondero regularly praised Daugherty's "warrior" mentality and effective restructuring skills. However, beginning in 2006, Daugherty, in his role of Portfolio Manager, began to disagree with the firm's shift in strategy and risk. He was concerned that the Highland Crusader Fund, L.P. ("Crusader"), started in 2000 by Daugherty and Dondero, had drifted too far from its original mandate and had become an unfocused and levered mix of non-

[1] HCM falsely alleges that Daugherty "recently" admitted to having "two strokes," that left him with "dead spots in his brain." Such statement is a complete fabrication. In January of 2000, Daugherty suffered a Transient Ischemic Attack while working at HCM. The symptoms abated within less than 60 seconds without Daugherty ever losing consciousness. EMS was called to the scene and Daugherty was taken to the hospital for evaluation. Daugherty received a battery of tests that came back inconclusive. After not feeling well a few days later, Daugherty returned to the hospital and underwent a series of tests including numerous blood tests, electrocardiograms, MRIs, CatScans, Carotid Ultrasounds, and a Transesophageal Echocardiogram. It was determined that Daugherty had a Atrial Septal heart defect consisting of a "hole" in his heart about the size of a quarter. The remedy was routine open-heart surgery to patch/repair the hole between the two upper chambers of Daugherty's heart. Daugherty had successful surgery to make the repair in early April of 2000.

HCM was fully aware that Daugherty reported back to work within 10 days of having the surgery and actively participated in leading the Genesis/Multicare bankruptcy and restructuring negotiations. At no time did Daugherty suffer damage to his brain as a result of the 2000 TIA. Daugherty has had no recurrence of TIA. Daugherty has had no adverse neurological or cardiovascular occurrences or tests since 2000. HCM was fully aware that Daugherty received a full release from his cardiologist and neurologist within months of the surgery in 2000. HCM was fully aware of Daugherty's medical releases as he qualified for HCM's Life Insurance and Healthcare coverage programs within a year of the surgery.

core strategies. He was particularly troubled by the fact that Dondero had begun to more actively and unilaterally change the focus and risk profile of Crusader, allocating the vast majority of the fund's assets to Dondero's other "seed" initiatives that were beyond the expertise of HCM and its employees' skill sets. Daugherty voiced these concerns to Dondero on numerous occasions beginning in 2006.

23. From 2006 thru 2008, Daugherty objected to speculative bets being placed on heavily concentrated and leveraged public equities, residential mortgage backed securities ("RMBS"), commercial mortgage backed securities ("CMBS"), treasuries, foreign exchange, life settlement investments, undeveloped residential real estate, timber, and oil and gas investments—all utilizing the assets of Crusader. Daugherty was quite vocal in expressing his growing disapproval of the increased leverage being used in Crusader.

24. In late October 2007, Daugherty pleaded with Dondero to reduce the leverage in Crusader's equity portfolio on the basis that it left no room for error. Despite having positive year-to-date returns, Dondero was not satisfied with the performance, and said that if Crusader could not achieve certain unrealistic return goals by the end of the year, then he would take the firm's capital out of Crusader and invest it elsewhere where he could achieve those returns. Daugherty thought this was wrong and continued to lobby to reduce the leverage in Crusader. Even so, Dondero rejected Daugherty's advice and assigned Dave Semic to reallocate vast portions of Crusader's capital, and increase its overall leverage by shorting treasuries and buying RMBS and CMBS securities on virtually limitless margins.

25. During 2007, HCM also decided to pursue a new distressed for control private equity fund named Restoration. This fund was created based on Daugherty's successful

distressed for control track record within Crusader. However, HCM's senior management decided that Daugherty would not be part of the Restoration management team. When Daugherty objected, Mark Okada ("Okada"), HCM's co-founder, explained to him (with Dondero and Jack Yang ("Yang") on the phone) that while they appreciated his contributions to the track record, they had decided to reduce their exposure to Daugherty and feature another manager within HCM, John Honis ("Honis"), despite the fact that Honis had much less involvement with the referenced track record. Daugherty was disappointed with their decision, but agreed to assist in the development of the target strategy and preparation of the marketing materials.

26. Soon after the launch of Restoration, it was apparent that the marketing process was failing miserably. Initially Yang and Okada blamed Honis for having poor marketing skills as cause for the failure. Honis was even directed to enroll in a public speaking course. Yang then briefly took control of the marketing effort for Restoration, but he, too, failed due to his lack of knowledge of the details behind the track record.

27. Ultimately, it was determined that Daugherty needed to be included in the Restoration marketing effort, because he was best suited to handle the in-depth questions that arose from detailed investor due diligence. Daugherty hesitantly accepted the new role as a key man in the revised Restoration platform and spent the second half of 2007 leading Restoration's capital-raising efforts.

28. By the end of 2007, Honis had been functionally removed from Restoration and was replaced with Brett Pope ("Pope"), who was named co-manager with Daugherty. Dondero announced that Daugherty would be in charge of sourcing and restructuring of distressed

investments, while Pope would be placed in charge of post-restructured operations and traditional private equity. Neither Pope nor Daugherty favored this arrangement, since the responsibilities were ambiguous and the available capital for each initiative came from the same source.

29. In January 2008, Daugherty informed Dondero of his intent to leave the firm on his anniversary date in April 2008. He offered a 6-month transition period. Also in January, HCM experienced the worst performance of its existence with many funds deteriorating significantly. By March 2008, Pope resigned from HCM. The problems at HCM and the funds it managed had continued to escalate and Dondero asked Daugherty to stay and help him manage through the crisis. Daugherty agreed to stay and assist HCM, even though he would experience significant deterioration in his personal wealth by not having sold out of the various incentive compensation awards he could have liquidated had he resigned as planned. Daugherty worked with Britt Brown and Brian Lording from the accounting team at HCM and began to raise cash for various HCM funds by selling investments, as the firm and its funds entered a severe liquidity crisis. He was also appointed to sole head of the Private Equity Team and Senior Manager of the Restoration Fund.

30. By July 2008, Daugherty was troubled to hear that available cash was flowing out of HCM to support struggling initiatives and affiliates of HCM that were experiencing liquidity crises of their own. He was equally concerned to hear that Dondero refused to de-lever (reducing debt by selling more assets) in anticipation of further deterioration because Dondero had declared to Daugherty, Okada and Kurt Plumer that he was going to "robo trade our way out of this."

31. Daugherty's concerns were validated when later in July/August, Dondero refused to satisfy a prime brokerage capital call with its bank counter party, triggering a breach in the financing line for several of its funds. This led to a daily liquidity crisis, since margin arrangements could be modified by the bank at its sole discretion. Instead of meeting the mandated margin call, Dondero chose not to liquidate the necessary assets and only authorized a partial payment. However, the margin call required 100% satisfaction, and this partial payment resulted in a breach of the loan (total return swap arrangement). On the Friday that the breach occurred, Dondero was happily passing out $100 bills and dinner vouchers to accountants and analysts in attendance, thinking he had done "enough" to comply with the requirement. HCM found out the following Monday that the breach had caused an immediate acceleration in the credit line and that Crusader was now at the mercy of its creditors.

32. In August 2008, Daugherty continued to raise cash in Crusader and other funds for margin calls, as well as for investor redemptions that were due to be paid in early October. Daugherty attempted to reject several purchases into Crusader (e.g., life settlement and real estate investments), but Dondero overruled him, instructing him that he was to make purchases if Crusader had cash to make the trade on that day, regardless of what the future impact on cash would be post looming redemptions. In fact, Dondero instructed Daugherty to respond only with "ok" in response to Dondero's trades if Crusader had cash.

33. Dondero's actions had led to a substantial write down/write-off in the value of Daugherty's and the other employees' previously awarded incentive compensation. By September 10, 2008, Daugherty was out of patience with Dondero's reckless and self-serving actions. He formally submitted his resignation in writing, although he gave 30 days' notice in

order to effect an orderly transition. By the last week in September, Daugherty had raised enough cash to meet margin calls as well as make a partial cash payment to prior redeemers in Crusader. By this time, it was apparent that Crusader and the Highland Credit Strategy Fund ("Strat") would have to liquidate by October with a "payment in-kind" distribution of securities and assets to investors, because there simply wasn't enough cash to pay redeemers in full.

34. During the last week in September, Michael Colvin ("Colvin") and Okada came to Daugherty's office to seek his help in preventing Dondero from orchestrating a series of trades that would sell the most liquid investments in Crusader and Strat to the CLOs and then have Crusader take that cash and funnel it into Highland Financial Partners ("HFP"). HFP was another HCM fund which was experiencing a major liquidity crisis, even though Dondero had previously transferred over $100 million in cash to keep it afloat, in return for illiquid notes to be held by Crusader and Strat. Colvin and Okada explained their concerns and objections with the appropriateness of the transactions and Daugherty agreed.

35. Daugherty phoned Dondero, told him of his conversation with Colvin and Okada, and informed him that the trades in question should not be completed. At first, Dondero calmly explained that his intention was to make Crusader, Strat and HFP as illiquid as possible to punish Barclays for raising the margin requirements on HCM's pledge of limited partnership interests to another loan. Dondero then instructed Daugherty to authorize the trades. Daugherty resisted and told Dondero that he would not allow the trades. Dondero grew angry and ordered Daugherty to make the trades, claiming that it was his decision, and telling Daugherty to stay out of the trade approval process. Daugherty then angrily shouted to Dondero that he was not going to approve the trades nor was he going to let Dondero make the trades. Dondero was furious. He told

Daugherty that he was not to "waste any more of his time" and was to immediately "go home until further notice." Daugherty was further instructed by Dondero to inform Boyce, the Chief Administrative Officer, Chief Operating Officer and Chief Financial Officer of HCM at the time, of his absence and was not to discuss the matter with anyone at HCM until further notice.

36. Daugherty followed Dondero's instruction and stayed at home for the remainder of the last week of September 2008. While Daugherty was at home on the mandated leave, the trades were completed. Britain took control of Daugherty's team during this time and directed Daugherty's team at the time the trades were executed. Boyce, as CFO and head of the Pricing Committee, also presided over the execution and settlement of the trades. Daugherty received an email from a Haynes and Boone attorney attempting to formalize closing of the trades and asking Daugherty whether "Crusader approves of these trades." Since Daugherty was on orders from Dondero to keep his views to himself, he simply responded: "I don't think Crusader has a say." The Haynes and Boone representative pressed more directly and asked Daugherty, as Portfolio Manager of Crusader, if he "approves of the trades on behalf of the Crusader investors." To which Daugherty replied: "Jim Dondero is approving these trades on behalf of the Crusader investors."

37. In September 2008, Lehman Brothers failed, causing it to file for bankruptcy. HCM was directly and indirectly impacted by the Lehman collapse because Dondero had invested HCM's and many of its fund's last remaining cash on a desperate bet for Lehman's survival. Additionally, with the fall of Lehman, HCM and the funds it managed lost almost all of their hedges because Lehman was its counter-party and had failed in its obligations when it filed for bankruptcy. As the crisis worsened, asset prices reached new lows, and financial firms were

liquidating performing loans at pennies on the dollar. HCM was forced to "put up the gates" to stem withdrawals at Crusader and Strat. Shockingly, Dondero determined that he would not make "payment in kind" distributions to the Crusader and Strat investors. In fact, he declared that he had traded the positions of the funds in such a manner as to render them completely illiquid in order to punish those investors who had redeemed or might attempt to redeem in the future. He used this approach to take advantage of investors who needed immediate liquidity by offering to buy their partnership interests at huge discounts to value. He and Okada purchased these interests into Highland Capital Services, L.P. ("Highland Services"), an entity wholly owned and operated by Dondero, Okada and their affiliates. He further schemed to manufacture a dispute between the "prior redeemers" and the "compulsory redeemers" of the two funds so that he could delay unwinding the fund until the "dispute" was eventually resolved.

38. Many of the Crusader and Strat investors brought suits or threatened to bring suits against HCM for its self-serving actions. The investors were disgusted with HCM's blatant disregard for its fiduciary duties towards them, but were being held hostage with their own money, since Dondero refused to liquidate the portfolio until he received full releases from the investors. These suits were ultimately resolved through settlement negotiations that were finalized in July 2011. Dondero declared the outcome a success and ordered news releases posted to the HCM website so that the investment community and the SEC would see the news.

39. By "putting up the gates," HCM effectively committed to a liquidation of Crusader and Strat, and lost its ability to charge most of its management and incentive fees to those funds. This would play a critical role later in 2012, as HCM attempted to purchase the

assets being liquidated from these funds at deep discounts into other HCM-managed funds or into portfolio companies owned by other HCM-managed funds that were paying full fees.

40. Late in 2008, HCM was widely viewed as a firm certain to default. Dondero assigned Yang with the task of negotiating a restructure of HCM's credit facility. The banks were furious to discover that Dondero and Okada had been siphoning tens of millions of dollars out of HCM into their closely-held affiliated account at Highland Services under the guise of repaying their loan to HCM.

41. The banks demanded that the cash be returned immediately or they would put HCM into an involuntary bankruptcy. During a telephonic bank meeting, Dondero refused to return the cash and defiantly proclaimed: "Highland will fail before I fail." To make matters worse, Yang was repeatedly caught lying to the bank group about the status of HCM and its funds (namely Crusader, Strat and HFP) and their redemption activity. The situation deteriorated so badly that the banks would no longer speak with Yang. In January 2009, Boyce asked Daugherty to intervene.

42. Boyce and Daugherty agreed that the payments to Highland Services needed to stop immediately. Daugherty then assumed an active role in negotiations with the bank group. During the process of negotiating with the banks, Dondero and Okada refused to provide collateral pledges to the banks until they were allowed to withdraw tens of millions of additional non-cash assets from HCM. Dondero brought the negotiations to the brink of a midnight bankruptcy filing in June 2009 until he got what he wanted. Dondero ultimately took the incremental amount he demanded from the employee compensation reserve, which had been set aside by the banks in order to retain employees during the crisis. Neither Dondero nor Okada

returned the tens of millions of cash they siphoned from HCM during this horrible crisis in late 2008, despite ordering lay-offs of more than 50% of HCM's employees.

43. By the Compensation Review period for February 27, 2009, moral was at an all-time low at HCM. Employees were resigning and being fired en mass. HCM had very little cash and available assets for incentive compensation grants. In fact, Dondero, Okada and Boyce announced that managers were to consider the tax-loss refund checks for prior year's compensation awards that had been written off in 2008 as their "bonus" for 2009. Dondero and Boyce determined arbitrary values for the "2008 Tax Refund" and distributed them to employees in their Compensation and Benefits Statement for 2009. These "awards" were notorious for being inconsistent with what the employees actually received from the Internal Revenue Service.

44. During late 2009, members of Daugherty's private equity team (Lawler, Carl Moore ("Moore"), Callan, and Smith) expressed to Daugherty their concerns regarding the stability of HCM. They were especially concerned about the tens of millions of dollars that Dondero and Okada had siphoned from HCM and what that said about their commitment to HCM. Accordingly, the members of the team presented a proposal that would incentivize them to stay with HCM, while aligning their interests with those of the investors. The plan included options and equity that tracked the performance of certain HCM-managed portfolio companies targeted for the plan. Options were chosen in addition to equity grants, since it was generally HCM's policy to grant option-like compensation programs to reward performance when the stock price of the underlying Company could have sufficient value that would lead to high cash taxes in the year of the grant. Importantly, these options would not create a taxable event for the recipient until they were exercised.

45. The intent of the plan was to provide equity-based incentives to the private equity team that would be realized upon the successful sale of certain portfolio companies managed by the team. Daugherty, together with Moore and Lawler, presented the plan to Dondero for approval. Daugherty explained to Dondero that the plan would act as an incentive to retain the employees on the private equity platform, since much of the value of their existing HCM retention-based incentive compensation had been destroyed as a result of right-offs and the liquidations caused by HCM's numerous margin defaults in late 2008.

46. After a series of discussions between Dondero, Moore, Thomas Surgent ("Surgent") (HCM's in-house attorney and Chief Compliance Officer) and Daugherty, including one where Dondero inserted himself into the program as the largest recipient under the retention plan, Dondero approved moving forward on the plan. He then instructed Daugherty to work with Surgent and Moore to implement the plan. In addition, Dondero gave strict instructions that the plan was not to be mentioned to Boyce, since he believed Boyce would also demand to be included, and he did not want to include Boyce in this particular incentive plan.

47. Surgent then gave instructions to Daugherty and Moore on what processes were required in order to make the plan align with HCM's Compliance Policy. He instructed Daugherty and Moore that any rewards under the plan would be subject to the Turnover Grid (a chart listing what percentage of compensation must be repaid or turned over to certain funds and what percentage of compensation could be retained by HCM employees in compliance with the various fund indenture agreements) applied to HCM employees who received compensation as portfolio company board members.

48. Surgent also instructed Daugherty that independent counsel would need to be retained on behalf of the portfolio companies involved and that the independent board members of the companies involved would have to approve of the plans. In January 2010, Moore retained Matt Lyons ("Lyons") of Andrews Kurth LLP to review the plan and negotiate on behalf of the portfolio companies and the board of directors (the board generally consisted of the Chief Executive Officer, Highland Private Equity personnel and independent board members). Numerous discussions took place between Lyons, Daugherty, Moore, senior executive management and the independent board members. Lyons advised all of the board members, including Daugherty, that all options awarded to executive management, independent board members and HCM employees should have the same strike prices.

49. Over the next several months, Lyons negotiated the various other points and concerns with Moore and Daugherty, who interceded on behalf of Dondero. These negotiations caused numerous delays on finalizing the incentive compensation to the executive teams and the independent board members, but by July 2010, the plans were submitted to the independent board members for final approval.

50. During the board meetings and prior to seeking approval of the independent board members, Lyons detailed the purpose, merits, market standards and fairness for each one of the option incentive grants. Lyons hosted question and answer sessions (with and without HCM representatives present) where all board members had the opportunity to discuss any matters regarding the option plans. Daugherty and the other board members relied heavily on Lyon's advice during these sessions. Finally, a vote for final approval was made with all HCM affiliated board members abstaining from the vote. By the end of July 2010, each portfolio company

received final approval to grant the options to the executive management teams, independent board members and the private equity team.

51. In accordance with Dondero's instruction, the HCM employee grants were amalgamated and held in a separate holding entity called Sierra Verde. This was an entity named by Moore and created by Lyons to resemble the HERA vessel which was created to hold equity-based compensation for other HCM employees. Final ownership of Sierra Verde was allocated among the private equity team on December 16, 2010, with Dondero receiving the largest share at 24%. As far as Daugherty was concerned, Sierra Verde was finalized and was just another component of his and the private equity team's deferred compensation package from HCM.

52. HCM began to stabilize in the second half of 2009, although it remained significantly leveraged and had become the target of many large lawsuits. In late 2009, Dondero informed the senior managers at HCM that he intended to position future fund initiatives outside of HCM to avoid having to contribute such interests to the bank group's collateral pool. He sketched a schematic for Daugherty where new "brands" would be created for HCM's future initiatives, with Dondero, Okada and their affiliates retaining 75% via Highland Services. The proposed brands eventually included:

> Tunstall – for stressed and distressed investing in hedge fund, private equity fund and 40act sub-advisory (retail funds) – led by Daugherty;
>
> ACIS – for structured product and CLOs – led by Mahmoud, later Terry;
>
> Falcon – for oil and gas investments in private equity funds – led by Britain;
>
> Canopy – for timber investments in private equity funds – led by Britain;

Highland Funds (now Pyxis) – for various comingled, sub-advisored and equity based 40act funds (retail) – led by Joe Dougherty (no relation to Patrick Daugherty);

Granite Bay – for long-short credit investing – led by Okada and Kaufman with Dondero taking a minority interest;

Brazillian Fund-unnamed at Daugherty's departure to pursue debt investing with Brazilian partners – led by Latimer, later Bramer; and

Swiss Fund – unnamed at Daugherty's departure to pursue healthcare venture capital investing based on Gregory and Daugherty's track record in healthcare – led by Gregory.

53. Dondero offered to partner with Daugherty on the Tunstall fund initiative, giving Daugherty 25% of Tunstall Capital Management, LP ("Tunstall Capital"). He also offered Daugherty 5-10% of all of the other management companies (or branded initiatives). The rest of the initiatives were doled out by Dondero to the managers he believed were most critical to their success.

54. In December 2009, Daugherty spoke to Dondero about the desire of several independent board members within the private equity portfolio platform to get better returns on the accumulated cash on their balance sheets. Daugherty suggested a non-leveraged, lower risk fund primarily with senior debt, bonds and highly liquid public equities that would carry no fees. Dondero agreed with the concept but wanted to incorporate a fee structure consistent with the hedge fund standard of 2% management fee and 20% incentive fee. Daugherty was opposed to charging a fee for managing these funds, since the cash balances were owned by companies that were owned by pre-existing funds managed by HCM and so were already being charged such fees or had their fees intentionally terminated (as was the case with Crusader and Strat).

55. Further, because Dondero intended to structure the fund like a hedge fund with monthly marking, both the management fee and the incentive fee would be paid monthly without disclosure to the various fund investors. This contrasted with the Sierra Verde equity/options, which would not be paid until a realization event occurred (e.g. when the companies were actually sold), at which time all distributions would be transparent to fund investors, and any turnover or netbacks against HCM's incentive fees would be made. Dondero agreed to make the incentive fee subject to realization events (actual sales of the investments), but Daugherty was not satisfied because there was no pass-through distribution to fund investors, unlike Sierra Verde. Daugherty thought the new fund idea had died until early January 2010, when Dondero inquired about the progress and instructed Daugherty and Surgent to "get it done."

56. Daugherty enlisted the help of Moore and once again retained Lyons at Andrew Kurth to advise them on the best way to achieve Dondero's demand. On January 26, 2010, Daugherty received an email from Surgent, copying Dondero, Boyce, Clint Gilchrist ("Gilchrist") and Honis, with attachments for documents related to Tunstall Distressed Opportunities Fund, which was later renamed Tunstall Special Opportunities Fund ("Tunstall"). In the email, Surgent instructed Daugherty that Dondero directed that the documents were to be distributed to the board of directors by the end of the day. This was just one of many emails from Surgent to Daugherty pushing to get Tunstall launched. Daugherty continued to resist signing the Tunstall Capital Management, LP ("Tunstall Capital") documents because he was not comfortable with numerous elements of the documents, including the fee structure to be paid to Tunstall Capital to manage Tunstall.

57. Daugherty made his views opposing the structure of Tunstall Capital and the fees paid by Tunstall clear to Dondero during several meetings in Dondero's office. On September 1, 2010, Daugherty learned that all committee members for the portfolio companies had approved the formation of Tunstall and the fees structure.

58. On January 22, 2011, Dondero sent Daugherty another email stating that 75% of Tunstall Capital fees had already been distributed (to Dondero and Okada and their affiliates via Highland Services), and that the remainder must be distributed by February 15, 2011 to Daugherty, and he needed to sign the documents. Daugherty again refused to sign. On March 13, 2011, Daugherty was informed that Tunstall Capital was a part of his compensation for 2010. He received several other emails from Dondero, declaring that he needed to sign the Tunstall Capital documents. Daugherty again refused to sign.

59. Having his past incentive compensation awards virtually wiped out from late 2008 to early 2009, but avoiding a bankruptcy filing for HCM, Daugherty focused on managing his HCM private equity portfolio back to health, and again began to experience significant successes by the end of 2009 and into 2010. HCM stabilized, primarily as a result of hundreds of millions of dollars of gains due to Daugherty's investments and restructuring contributions. Dondero proposed that Daugherty launch a new follow-on fund to Restoration, which had been tremendously successful under his leadership. Daugherty began the marketing process for Tunstall RCP II in early 2011.

60. Daugherty received his Compensation and Benefits letter for 2010 on the last day of February 2011. He was disappointed to see that he was awarded less compensation than the year before, reduced by 50% of the board fees he was allowed to keep pursuant to HCP's Board

Compensation Turnover Plan, with a payout over two years instead of one. He was also told that Dondero would not grant him the promised 5-10% ownership interests in any of the new branding initiatives agreed to earlier. Finally, he was again told to sign the Tunstall Capital documents so that he could receive his 25% share and fees earned at that entity. Daugherty expressed his disappointment to Dondero. Dondero explained that Daugherty had to trust him and that he based his decision on Highland 2.0 (a "back to future" attempt at resetting HCM's culture to the earlier days of HCM when Dondero made decisions and awarded or changed compensation purely at his discretion). Daugherty told Dondero that Highland 2.0 would not work for him because he wanted an agreement in writing that clearly defined how he and his team would be compensated. He told Dondero that he would negotiate in good faith thru the end of the summer of 2011, explaining that if they did not have a deal by that time, he would resign from HCM at the end of the summer.

61. In the spring of 2011, Dondero asked Daugherty and David Smith ("Smith") what they thought the ultimate value and recovery would be for Cornerstone equity and bank debt, respectively, and whether Daugherty would be interested in buying some cheap for the Restoration Fund. Daugherty and Smith gave Dondero their views regarding the value of the Cornerstone debt and equity consistent with their presentations that had been prepared on a quarterly and semi-annual basis for investors. Daugherty and Smith presented Dondero with a series of analyses demonstrating what the value of the Company could be once the reimbursement environment had stabilized. Dondero then directed HCM trading personnel to offer to purchase Cornerstone's equity and debt at a significant discount from the valuation offered by Daugherty and Smith.

62. After a couple of weeks had passed, Dondero informed Daugherty and Smith that the seller was actually the committee representative for the Strat Fund, and that they were willing to pursue a sale of their Cornerstone interests for liquidity reasons, so long as the buying party was not affiliated with HCM because they did not trust Dondero's or HCM's pricing motives. More time passed, leading Daugherty and Smith to assume that the trade had died.

63. As summer began, Dondero began to show enhanced interest in how Cornerstone was valued. Daugherty found this strange, since the value used for Cornerstone was basically meaningless because the funds that held the investment did not pay fees based on estimated values; they only paid incentive fees based on realized values (e.g. when the asset was actually sold). Daugherty and Smith had appropriately and conservatively marked the position for many months and had discounted the negative factors that could impact the stock price over the foreseeable future.

64. As Dondero continued to pursue a transaction with the Highland Credit Strat Committee, he directed that a third-party valuation of Cornerstone should be performed. By early August, the new valuation of Cornerstone had been completed, and Smith presented it to Dondero. However, Dondero was not pleased with the new valuation of Cornerstone because it was "not low enough." Smith explained that Cornerstone was already conservatively marked and that he and the third-party valuation expert had already valued Cornerstone at a steep discount compared to its publicly-traded peers. Boyce was put in charge of getting a "better" third-party valuation.

65. While Daugherty was out of the office, Dondero and Boyce directed Smith to present additional and more onerous discounts to the third-party valuation expert. Additionally,

Dondero, after being fully appraised of the value of real estate owned by Cornerstone as well as settlement negotiations in Cornerstone's pending litigation, instructed Smith to ignore and to omit any other value from the third-party firm's data package. Dondero and Boyce instructed Smith to make additional value reduction assumptions, including more draconian future reimbursement assumptions and management team discounts that would further reduce the third-party valuation. Finally, Dondero and Boyce received the lower valuation they had sought and presented it to the Highland Credit Strat Committee as proof for the legitimacy of their low bid price.

66. About this same time, Dondero instructed Daugherty and Smith to begin the process of granting another series of options for the Sierra Verde vehicle in order to true-up the dilutive effect of the rights offering promulgated by the Restoration investment into Cornerstone in December 2010, which effectively diluted/reduced the ownership of preexisting holders by approximately 30%. The purpose of the original rights offering was to infuse additional capital into Cornerstone so that it could make strategic acquisitions and acquire hospital real estate assets.

67. By the end of August 2011, Smith reported to Daugherty that Lyons was not comfortable with the mechanics of the second round of equity/option grants and that the request had "numerous problems." Daugherty instructed Moore, who had been the point man on the original Sierra Verde transaction, to take over the discussions with Andrews Kurth, and to advise Daugherty about any problems he discovered. By mid-September, Moore indicated that a second round of equity/option grants was not advisable at the past levels due to the company's material improvement since the last grants. Daugherty agreed with Moore's assessment and

informed Dondero accordingly. Dondero disagreed with the assessment and instructed Daugherty to "find a way to get it done." Daugherty said he would try to find a way to complete the transaction, but that it was unlikely.

68. Also during the summer of 2011, Dondero broached the subject of having Daugherty serve as CEO of Cornerstone, while Dondero assumed the role of Chairman of the Board. Dondero told Daugherty that they could each collect the equivalent of a CEO's salary via this arrangement. Daugherty disagreed and explained to Dondero that there could only be the equivalent of one CEO's salary paid, regardless of the split between the CEO and Chairman responsibilities. Dondero then proposed a co-CEO arrangement: Daugherty would manage "operations" and work at Cornerstone three days a week while Dondero would handle "marketing" and work at Cornerstone two days a week. Dondero also informed Daugherty that Dondero would receive 60% of the CEO compensation while Daugherty would receive 40%. Dondero suggested that they would not have to follow the firm's Turnover guidelines as used for board fees. Daugherty disagreed. Dondero gave Daugherty a highlighted copy of the Restoration indenture and told him that HCM's legal/compliance group recommended that they would have to turnover certain compensation mandated by the indentures consistent with the process for board fees earned by HCM employees, but that Dondero thought it was a "grey area" and would let Daugherty decide. Daugherty showed the highlighted document to Moore and told him he did not think there was any way to keep all of the compensation as Dondero suggested. Moore agreed, and Daugherty informed Dondero that he concurred with HCM's legal/compliance department's conclusions that Dondero's approach was not permitted. Dondero and Daugherty were elected as co-CEO's of Cornerstone during the last week of

August 2011. Daugherty resigned by the end of September and never collected any compensation for his services as co-CEO of Cornerstone.

69. In early September 2011, Dondero informed Daugherty of his intent to issue a second rights offering for NexBank Capital, Inc. ("NexBank Capital"). NexBank Capital is a holding Company controlled by Dondero, Okada and their affiliates, and is the sole shareholder of NexBank Capital, SSB). Daugherty and other senior HCM and affiliate employees had been granted shares in NexBank Capital pursuant to their Compensation and Benefits award for 2004. After Todd Travers and Davis Deadman left HCM and its affiliates in 2010, Dondero ordered the first rights offering to raise capital for NexBank Capital. Dondero disputed with Travers and Deadman regarding the "fair value" and lack of arms length process for the rights offering. Dondero guided the valuation experts' price lower so that he could cheaply dilute existing holders who were unwilling to participate under Dondero's leadership. Existing holders that were HCM employees were expected to be "loyal" and participate or suffer reprisals in their 2011 bonuses. Travers and Deadman were removed from the board and subsequently diluted. Daugherty reluctantly participated and was named to the NexBank Capital board of directors in early 2011. When Dondero informed Daugherty of his intent to launch a second rights offering in September 2011, Daugherty protested. This time, Dondero launched an even lower value for the rights offering and did not even bother to retain a third-party valuation expert. Dondero assured Daugherty that he would benefit because his purpose was to increase the ownership of current HCM employees like Daugherty and decrease the ownership of those former employees perceived as "disloyal" to the firm. He specifically identified Travers and Deadman as being his targets for dilution. Daugherty and other senior ranking HCP employees declined to participate.

Daugherty later learned that Amit Wahlia, who did not participate, was subsequently demoted and reassigned to report to a more junior HCM employee, Trey Parker, in early 2012.

70. Daugherty worked from Montana during the Summer of 2011, and spent most of his weeks on the road attempting to raise funds for Tunstall RCP II, a second distressed for control private equity fund. From March 2011 to September 2011, Daugherty was also in the process of negotiating his future compensation package with Dondero that would keep him at HCM through the investment period of Tunstall RCP II, which was about 5 years. Daugherty made it clear to Dondero in March 2011 that he intended to leave HCM if a new arrangement could not be worked out. He also told Dondero that he would not remain at HCM through the first close on Tunstall RCP II without an agreement that committed him to the firm for the investment period of the Tunstall RCP II Fund. Dondero assured Daugherty that he would provide him and his team with more autonomy and a market-based deal by the end of the summer.

71. Dondero offered Daugherty a Compensation and Benefits Statement that was delivered to Daugherty by Brian Collins on September 26, 2011. The statement included a series of inducements that included cash and bonuses, 25% of the management fees in Tunstall RCP II, the 40% share of the CEO compensation from Cornerstone, full retention of portfolio board fees as allowed by HCM compliance, 15% of a future REIT (assuming it was launched) and 25% of the before-mentioned Tunstall Capital management fees.

72. Daugherty had concerns about some of the components of the compensation offer, namely the co-CEO role at Cornerstone and the Tunstall Capital fees. However, before he could address these issues, Dondero retracted the REIT award and inexplicably rescinded the entire

offer on September 27, 2011. When Daugherty called Dondero to protest, he was told "Fuck you! Quit!" When he later tried to discuss the matter by email, Dondero sent him a response (with a copy to Boyce) telling him: "[You] will get no agreement in writing" and "[You] will trust or you will leave."

73. By this point, Daugherty was already very frustrated by the proposition of having Dondero as a co-CEO of Cornerstone, since he regularly missed entire board meetings and corporate dinners for Cornerstone and other portfolio companies in which he served as board member. He was also tired of having his job made more complicated by constantly having to find solutions to Dondero's self-dealing and conflicts of interest. Further, he was generally disgusted by Donderos's attempts to manipulate mark-downs so that he could take advantage of his own investors. Daugherty was unwilling to tolerate Dondero's latest attempt to re-trade his commitment to Daugherty's compensation and bonus terms and was totally fed up with the entire HCM culture, which pitted senior managers against one another in order to incite negative comments and backstabbing to justify paying each less. Daugherty submitted his letter of resignation on September 28, 2011.

74. The day following his resignation and pursuant to his 30-day notice, Daugherty reported to work and attended a meeting in Boyce's conference room to present his thoughts and recommendations on each investment within his portfolio and each member of his team. Boyce and Britain were in attendance. Daugherty again brought up the problems with issuing a second round of equity/option grants for Cornerstone to the Sierra Verde entity. He also told all in attendance that the lawyers at Andrews Kurth, as counsel to Cornerstone and the board, were

unlikely to approve of the supplemental issuance demanded by Dondero and that the idea should not be pursued. He continued to give his views on other portfolio positions and personnel.

75. After the meeting, Boyce and Britain conspired to deprive Daugherty of his earned compensation by converting and modifying contracts and vessels which Daugherty had vested ownership in. They both disliked Daugherty and each stood to gain by acquiring power and prestige with his departure. Throughout 2011, Boyce inserted himself into the affairs of Daugherty's team and created problems and tensions in order to undermine Daugherty. Boyce and Britain also led the implementation of Highland 2.0, which was used to reduce Daugherty's influence at the firm and over his team.

76. On September 30, 2012, Boyce and Britain began interrogating many of the members of Daugherty's private equity team regarding the initial Sierra Verde grants and the formation of that vessel. Boyce was livid to learn that he had not been included in the Sierra Verde transaction and that its value was now substantial. In fact, Boyce and Britain focused much of their attention in the days following Daugherty's departure on investigating and confronting private equity team members with the fact that their equity/option grants could now be worth more than what Boyce and Britain had received in total compensation for 2010.

77. Their accusations were self-serving and wholly ignored the fact that the Sierra Verde grant process began in 2009, when all security levels were much lower because of the global financial crisis against a context where HCM itself had defaulted on its bank loans and had contemplated filing for bankruptcy. Their investigation ignored the fact that these grants were approved by the independent board members on behalf of each company following a process that was dictated by outside counsel at Andrews Kurth and by HCM counsel, Surgent, on

behalf of the HCM-managed funds. In fact, Britain boasted that he intended to never speak to Daugherty again upon hearing of his resignation. This obviously made it difficult for Britain to determine the reason for Sierra Verde's creation and the purpose and process behind it.

78. Several of the private equity team members, including Moore, Lawler, Smith and Callan, reported to Daugherty that Boyce and Britain were determined to unwind the Sierra Verde vessel and presented it as a rogue transaction promulgated by Daugherty. Never once did Britain or Boyce seek Daugherty's explanation for the genesis, scope and intent of the plan. They later discovered that Dondero had mandated the plan in 2009 and that Surgent had given the Legal Department's approval for the plan -- with Lyon's blessing.

79. On October 2, 2011, Dondero reached out to Daugherty to have drinks at Nicola's Restaurant telling Daugherty: "Life is too short for it to be anything but a pleasant exchange between two battle-hardened warriors." They met at Nicolas's on October 6, 2011. In that meeting, Dondero discussed, in great detail, how he recently discovered his wife's infidelity. He suggested that other wives of HCM employees had not been faithful to their husbands as well, while assuring Daugherty that his wife had remained faithful.

80. Dondero then offered, as evidence of his wife's unfaithfulness to their marriage, about 20 pages of emails and text messages between his wife and her alleged lover. He explained to Daugherty that he had spent about three sleepless days reading almost 20,000 emails and texts raided from various tracking sources he had through his connections with certain branches of the intelligence community. Dondero explained that the emails and texts covered every communication his wife had over their five-year marriage. He also mentioned

that he had used sources that were illegal in order to obtain the information and had committed about 20,000 misdemeanors in the process.

81. In the meeting, Dondero went on to explain that at the time of Daugherty's resignation, he was in the process of reviewing these communications and that initially, a cell phone number he identified as belonging to Daugherty kept recurring, causing him to think Daugherty may have been having an affair with his wife as well. Dondero admitted that it was not until the following week when he was able to match up phone numbers with messages that he had been able to determine that his wife was communicating with Daugherty's wife, primarily regarding children's activities.

82. Dondero then attempted to entice Daugherty to come back to HCM by re-offering him the options of Cornerstone that had previously been held in the Sierra Verde vessel, which had been illegally dissolved after Daugherty's departure. He also offered Daugherty the full CEO position at Cornerstone, conditioned upon Daugherty's agreement that Dondero could alter his compensation as he felt appropriate and that his private equity team members could be reassigned as Dondero determined to be necessary. Dondero also told Daugherty that he would continue to lead the marketing effort for the Tunstall RCP II Fund. He dangled other incentives before Daugherty in order to attempt to entice him to return, including his right to maintain his board positions at MGM Studios and Safety-Kleen Systems, Inc.

83. Daugherty was understandably unnerved by this entirely bizarre conversation. He thanked Dondero for the offer, but respectfully declined. As Daugherty prepared to leave, Dondero asked that Daugherty think it over and get back to him with a final answer later. The following morning, Daugherty reported to work and was soon greeted by Boyce who remarked

that he had heard the meeting with Dondero "went well" and that Daugherty would be staying at HCM under the revised offer proposed by Dondero. Daugherty informed Boyce that while the meeting was civil, he had no intention of remaining at HCM under the new terms or under any other terms. Boyce left Daugherty's office with a surprised look on his face.

84. On October 12, 2011, Boyce informed Daugherty that Dondero had originally instructed him to find a way to get out of paying Daugherty under Sierra Verde the day after Daugherty resigned. Boyce, in an attempt to play "good cop," then assured Daugherty that he would try and get him the value of his Sierra Verde holdings. Boyce's efforts were hollow, since he did not like Daugherty. Boyce considered Daugherty a threat and envied Daugherty's senior position within the firm. Boyce desperately wanted to lead the private equity group managed by Daugherty. When Daugherty informed Boyce that he was unwilling to accept Dondero's revised offer, Boyce aggressively lobbied to have Daugherty removed from the office immediately.

85. When Daugherty returned to the office on October 17, 2011, Boyce had Brian Collins, Head of Human Resources, present Daugherty with three documents relating to HCM's separation offer: (1) Sierra Verde Consent – a document to be signed by the Board of Directors of Sierra Verde agreeing to have the vessel dissolved; (2) Cornerstone Separation Agreement - a document dictating that Daugherty was no longer co-CEO and Chairman of Cornerstone, and that he would be paid $600,000.00 over the following 18 months in exchange for his continuing duty to consult and cooperate relating to Cornerstone matters; and (3) HCM Separation Agreement – with new and more restrictive terms and release provisions from Daugherty's 2004 Employment Agreement. At this meeting, Daugherty stated that he wanted his compensation

awards and that he was exercising any rights to be paid such awards. Daugherty received a compensation spreadsheet explaining his remaining payouts.

86. Daugherty was also informed by various HCM employees that Dondero had hastily called a brief meeting with Restoration investors the previous Friday and had informed them that Daugherty had resigned from the firm because he had "flaked out" and "wanted to go to Montana because he didn't know what he wanted to do with his life." Dondero also told Julie Silcock at Houlihan Lokey that Daugherty had "taken a one year leave of absence."

87. Within days of being asked to vacate HCM's offices, Daugherty received immediate pressure from Surgent, Collins and Dondero to sign the new separation documents, which he refused to do. He also noted that the documents he was given instructed him to seek the advice of legal counsel, which he had not had a chance to do. On October 20, 2011, Daugherty asked Collins if the offer was an all or nothing deal and whether he had to execute all three documents in order for any one of them to be effective. Collins replied that he did.

88. Daugherty also inquired of Surgent why Sierra Verde was being unwound and dissolved. Surgent told him it was an "improper transaction" and was not permitted under the relevant indenture documents. When Daugherty asked how it was that this was just being discovered now, especially since Surgent was involved in the Sierra Verde approval and formation process dating back to 2009, Surgent did not respond. Daugherty said he was willing to entertain substitute consideration if there was a legitimate mistake, but that he was confused as to how it was now determined that the indenture did not permit Daugherty and the private equity team to receive options on the performance of Cornerstone and Trussway – especially since a payment could only be realized upon a successful sale of the company, with full disclosure to the

funds' investors. Further, if the Sierra Verde vessel was improper, Daugherty could not understand how it was permissible for him to receive monthly payments by Cornerstone equaling $600,000.00 under the proposed Cornerstone Separation Agreement, when there was no connection to Cornerstone's performance and the payments would not be visible to the fund's investors. Surgent again did not respond.

89. Daugherty further inquired about how the rest of his private equity team was being compensated. Surgent refused to answer Daugherty's question, other than to say that his former private equity team had been taken care of. Finally, Daugherty asked Surgent how it was deemed that the performance-driven option program under Sierra Verde was considered impermissible but the Tunstall fees were considered permissible. Surgent did not respond.

90. Daugherty later discovered that the Cornerstone independent board members had not been informed of the Sierra Verde unwind and were completely unaware that there was a compensation dispute with Daugherty. Dondero left voice messages with Daugherty telling him he needed to sign the documents and offering to update him on "what it's like to be married to a tramp wife."

91. On October 27, 2011, Dondero sent Daugherty an email notifying him that HCM had changed the documents and that all of the new documents would have to be signed. Surgent, Collins and Dondero attempted to schedule another meeting to discuss the new documents on October 28, 2011. Daugherty declined to discuss the matter further with HCM and referred the matter to his attorneys.

92. In January 2012, Daugherty was informed that Dondero, Boyce, Britain and Honis were schedule to host an investor committee update for the Crusader Fund. Daugherty

was listed in the presentation materials as having left HCM for "lifestyle" reasons. Dondero explained to those in attendance that Daugherty left HCM due to "lifestyle" reasons, that he was "burned out," that he was only willing to "work 30 hour weeks," and that he had effectively spent the summer of 2011 on vacation in Montana. Dondero, Boyce, Britain and Honis knew these remarks were wholly untrue, misleading and defamatory in nature. To the contrary, Daugherty was actively managing the various funds and investments and people that reported to him, and was aggressively marketing the new Tunstall RCP II Fund. Dondero was fully aware of, and indeed specifically approved of, Daugherty's request to work from a base in Montana during the summer of 2011 since so much of his time was spent on the road attending board meetings and marketing Tunstall RCP II in places like Dallas, Chicago, Boston and New York. In fact, Daugherty maintained an approximate 57 hour per week average approved by Dondero through the day of his resignation.

93. The Crusader investors did not trust Dondero because of the misrepresentations, broken promises and activities that took place with the management of their fund since 2008. Many of them knew Daugherty to be blunt, honest and hard working, and found it suspicious that he would leave HCM for "lifestyle" reasons. They insisted on having access to Daugherty to conduct an exit interview. Dondero and HCM complied with this demand and included Daugherty's email and contact information in the same presentation materials that listed Daugherty as having left for "lifestyle" reasons.

94. In late January 2012, Daugherty participated in exit interviews with certain fund committee members and detailed his views on the prospects and liquidity for the various fund investments and his reasons for leaving HCM. Daugherty presented his views in the same

manner and thoroughness that he had done while conducting quarterly and semi-annual updates consistent with his responsibilities at HCM.

95. Apparently, Daugherty's views were materially inconsistent with information and advice provided by Dondero, Boyce and Britain regarding the companies in the Fund. Daugherty gave a very strong review of one of the fund's largest investments, noting that discussions were taking place at the board level to sell one of the Fund's companies to a private equity firm or take it public in an IPO (Initial Public Offering) in the third quarter of 2012, which would likely more than double the price of the stock. Britain and Dondero had presented a completely different scenario to these investors, telling them there were no plans for a liquidity event.

96. Britain and Dondero had recommended that these investors sell their shares into a HCM-endorsed tender that the portfolio company was pursuing at the direction of Dondero and Britain at half of the expected IPO/sale price. The investors were told this was their only foreseeable option for liquidity, while Dondero and Britain were simultaneously campaigning to block the company from pursuing the IPO or outright sale. Dondero and Britain knew this would transfer more value to themselves and to HCM, since other HCM-managed funds were paying full management fees and incentive fees to HCM and this would increase one fund's percentage ownership of the company at the expense of another fund's investors. The net effect of their scheme allowed higher fee paying funds to increase their ownership and take part in the higher price liquidity event later, while funds that had suspended fees to HCM would sell out at depressed levels. Additionally, Dondero and Britain were actively trying to acquire shares in the

company from an investment bank for their personal accounts, while instructing the fund's investors to tender (sell) their shares.

97. Daugherty was asked by the committee to give his views on value and future prospects of another portfolio company. Daugherty told the group that the bank debt was easily worth 100% on the dollar, and that the equity would likely be worth two and maybe three times its current market price. Daugherty mentioned that EBITDA had significantly improved and there was a significant potential value from a proposed settlement.

98. In contrast, Daugherty learned that Dondero and Boyce had presented a far lower and bleaker value picture. In addition, among other things, they omitted any reference to the EBITDA improvement. Instead, they focused their analysis on the trailing reported quarterly EBITDA numbers and contraction by trading multiples of industry peers. Daugherty later learned that Dondero and Boyce were attempting to buy the debt and equity in this company from other Highland fund investors at deep discounts.

99. This pattern of abuse and self-dealing continues through the acts of Dondero, Okada, Britain, Boyce and Surgent. Recently, these same principals threatened investors to agree to being bought out at .75 cents on the dollar on their entire holdings in a fund, or run the risk of having their covenants stripped and being made silent partners if HCM was able to raise enough cash to buy over 50% of the partnership. Simply put, HCM is attempting to raise cash from new investors in order to steal the assets of its old investors by claiming that they are "distressed."

100. In response to a request from Dondero on Christmas Eve 2011, Daugherty agreed to meet Dondero for drinks on February 2, 2012. Daugherty had been subpoenaed by Rebecca Dondero to testify in the Dondero's divorce that morning, but the hearing had been postponed.

Dondero again chose Nicola's Restaurant to meet. During the meeting, which lasted about an hour and a half, Dondero explained to Daugherty how evil his wife was and why he was determined to pay her nothing in the divorce. Daugherty advised Dondero to pay his wife the $5 million stipulated in their prenuptial agreement because she would always be the mother of his children and would always have primary custody of them. Daugherty also advised Dondero that it wasn't good for the kids to see their father disparaging their mother in public as a "whore." Dondero said he was leery about the cost of litigation, but was following his lawyer's advice that "if his wife got all of the money up front, it would be too easy to just leave the kids with a nanny and go party in Aspen." Dondero further commented that he could also trade custody for more cash compensation at a later date.

101. Dondero then briefly mentioned Daugherty's unresolved compensation issues and acknowledged that Daugherty was treated poorly during his exit from HCM. Daugherty expressed his opinions about the real value of Sierra Verde and its underlying investments. Dondero mentioned his appreciation for Daugherty's most recent investments/restructurings and the positive impact they had on the firm's performance (MGM, Safety-Kleen, Rotech and Graceway Pharmaceuticals just to name a few). Dondero further stated that he would try to get Daugherty's compensation issues resolved quickly.

102. Daugherty awoke the next morning to a phone message requesting that he call Dondero back. The message had been left around 9:00 p.m. the previous night. Daugherty called Dondero around 7:30 a.m., and Dondero proceeded to interrogate Daugherty as to why Rebecca Dondero was seeking his testimony. Daugherty explained that he did not know, but that he was subpoenaed and was required to produce any emails between him and Dondero in 2011,

any financial information of HCM, any partnership documents, and to surrender his cell phone. Dondero then attempted to help Daugherty remember how he should testify regarding his wife, suggesting that it was Daugherty's idea that he pay his wife nothing and that Daugherty had referred to Dondero's wife as a whore. Daugherty denied Dondero's manipulated version of the facts and reminded Dondero that he had encouraged him to seek marriage counseling in September 2011. Dondero became annoyed and hung up on Daugherty.

103. On February 9, 2012, Dondero phoned Daugherty and left him a message, again offering to pay him $600,000.00 from Cornerstone with a "consulting contract" in exchange for seizing his Sierra Verde shares. He also offered to purchase Daugherty's shares in Nexbank Holdings for $40 per share, compared to a recent rights offering price of $30 per share, as long as Daugherty would cease communications with former investors and executives of companies affiliated with HCM's funds.

104. Daugherty reminded Dondero that he was very familiar with the appropriate value for Cornerstone, since he had presided over the investment in various capacities as Chairman, Executive Chairman and CEO since 2008. Daugherty refused to accept Dondero and Boyce's valuation. Dondero raged at Daugherty, claiming it was his mark that was used for valuation purposes, but Daugherty reminded Dondero that it was his and Boyce's valuation, since they were the ones who ordered Smith to have the company revalued by a third-party firm while Daugherty was working from Montana.

105. Dondero then angrily proclaimed that he had spoken to someone at Concorde who told him they were not pursuing the Strat sale because Daugherty had given them HCM's confidential information and had told them not to do so. This was not true. Concorde

representative served on both the Crusader committee and the Strat committee, and were thus informed of Daugherty's views of Cornerstone during the exit interview granted by HCM. Concorde independently determined not to sell to Dondero or his affiliates, despite numerous attempts by Dondero to induce a sale through the summer of 2011.

106. In the last week of February 2012, Dondero instructed certain HCM employees, as board members of the HERA program, to amend the governing documents. The amendments would allow the entity to terminate the payments and ownership interests if the board, in its sole discretion, determined that a former employee violated the terms of the confidentiality provisions in HCM's employment agreement. Dondero also instructed the board members to amend the governing documents to cause any former employee to forfeit his interest if he or she ever brought suit against HCM. This effectively made it impossible for anyone to enforce collection under the rewards program. These actions took place even though Daugherty was fully vested in the program and received a 2011 W2 from HCM claiming it as income for Daugherty and an expense for HCM.

107. In the first week of March 2012, Dondero, Okada, Boyce and Britain called a mandatory meeting among HCM professionals to inform them that there would soon be litigation with Daugherty, and that anyone caught communicating with Daugherty for any reason would be fired on the spot. They were also told that anyone who helped HCM provide damaging testimony or dirt on Daugherty would be well-regarded by management, and any misdeeds or failings of the past would be forgiven.

108. On March 19, 2012, Daugherty received a letter from counsel for HCM alleging broad, ambiguous and unsupported violations of various agreements, and claiming that

Daugherty had therefore forfeited "compensation and other payments and distributions" that he was entitled to under "any policy, plan, or agreement with Highland or any of its affiliates." Such conduct constitutes an anticipatory repudiation of the parties' agreements.

109. On April 4, 2012, Daugherty testified, pursuant to a subpoena issued by Rebecca Dondero, in Dondero's divorce proceedings, currently pending in a Family District Court in Dallas County. At the hearing, Daugherty testified that he believed Highland was stable and solvent. He also testified that while he was having drinks with Dondero, Dondero told Daugherty that he was going to get his net worth down to as little as possible in order to avoid paying his wife the $5 million that she was entitled to pursuant to the couple's prenuptial agreement. During the hearing and after Daugherty had testified, Dondero stated, off the record, that he would "destroy" Daugherty. Two weeks later, Plaintiff filed its Original Petition.

V.

GENERAL CAUSES OF ACTION

110. For each cause of action herein, Daugherty re-alleges and incorporates by reference each and every allegation and statement contained in the foregoing paragraphs as if fully set forth herein.

A. REQUEST FOR DECLARATORY JUDGMENT AS TO THE EMPLOYMENT AGREEMENT

111. Pursuant to Section 37.001 of the Texas Civil Practice & Remedies Code, *et seq.*, Plaintiff requests that the Court determine the rights of the parties with regard to the Restrictive Covenants contained in Section 5.3 of the Employment Agreement. Plaintiff seeks a declaratory judgment that the non-solicitation and non-competition covenants are overly-broad and unenforceable and not reasonably tailored to protect the business interests and good will of HCM

and are accordingly, unenforceable under Section 15.50 of the Texas Business & Commerce Code.

B. BREACH OF THE EMPLOYMENT AGREEMENT AGAINST HCM

112. Pursuant to the Employment Agreement, Daugherty was entitled to participate in any bonus, option or similar incentive compensation plan, including the LTIP, the HERA Plan, Sierra Verde and HCM's Defined Benefit Pension Plan. Daughtery's termination under the Employment Agreement was a "Voluntary Termination—Non-Competing Business," as dictated by Section 4.5 of the Employment Agreement, which requires HCM to honor any amounts or rights to which the employee would be entitled to under any other written agreements with HCM.

113. Section 4.5 of the Employment Agreement further required HCM to pay Daugherty severance pay dependent upon his execution of a separation agreement and release "substantially in the form" as Exhibit "A" to the Employment Agreement. In further breach of the Employment Agreement, HCM presented Daugherty with a General Release and Separation Agreement on October 27, 2011 which did not resemble, in any respect, Exhibit "A" to the Employment Agreement.

114. By reason of the foregoing acts and conduct of HCM, and breach of numerous agreements, including the Employment Agreement, Daugherty has been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

C. DEFAMATION AGAINST HCM AND DONDERO

115. In connection with Daugherty leaving his employment with HCM, HCM and Dondero published false statements of fact regarding Daugherty stating, among other things, that Daugherty was "burned out" and had left for "lifestyle" reasons. HCM and Dondero made such statements knowing them to be false, and published them to third parties intentionally with actual malice or reckless disregard for the truth and/or created an unreasonable risk that the defamatory statements would be communicated to third parties.

116. HCM and Dondero's actions constitute defamation *per se,* because the nature of the defamatory statements related to Daugherty's professional character, reputation or standing. HCM and Dondero's defamation of Daugherty proximately caused damage to Daugherty in excess of the minimum jurisdictional limits of this Court.

VI.

SIERRA VERDE CAUSES OF ACTION

117. For each cause of action herein, Daugherty re-alleges and incorporates by reference each and every allegation and statement contained in the foregoing paragraphs as if fully set forth herein.

A. BREACH OF CONTRACT AGAINST SIERRA VERDE AND DONDERO

118. On December 16, 2010, a Limited Liability Company Agreement ("Agreement") was entered into by Sierra Verde and certain Members, including Daugherty, who were holders of units. Pursuant to the Agreement, Dondero was named the Manager of Sierra Verde and given "sole right, power and authority to manage, direct and control all of the business and affairs" of Sierra Verde.

119. After Daughterly left his employment at HCM, and in an illegal and unilateral breach of the Agreement intended to cause harm to Daugherty and to deprive him of his valuable ownership interests in Sierra Verde, Sierra Verde and Dondero took steps to purportedly unwind and dissolve Sierra Verde.

120. Sierra Verde and Dondero further breached the Agreement by failing to give Daugherty, as a holder of units, his entitled vote, as required by Section 3.3 of the Agreement.

121. Sierra Verde and Dondero failed to deliver to Daugherty, as a holder of units, the quarterly reports required by Section 3.5 of the Agreement, again in breach of the Agreement.

122. Sierra Verde and Dondero engaged in other acts amounting to blatant, illegal breaches of the Sierra Verde Agreement, including but not limited to, the improper delegation of power and authority to Dondero as Manager and the failure to properly distribute cash and assets of Sierra Verde to Daughtery, as a holder of units, upon the dissolution of Sierra Verde.

123. By reason of the foregoing acts and conduct of Sierra Verde and Dondero, Daugherty has been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

B. OPPRESSION OF A MINORITY SHAREHOLDER AGAINST SIERRA VERDE AND DONDERO

124. At all relevant times, Daugherty was a minority holder of units in Sierra Verde. Sierra Verde and Dondero, as Manager, have engaged in conduct that constitutes oppression of Daugherty, a minority shareholder, including but not limited to the following: (i) unwinding and dissolving Sierra Verde; (ii) failing to provide Daugherty with required quarterly reports; (iii) committing multiple breaches of the Sierra Verde Agreement; (iv) failing to provide Daugherty

with his voting rights under the Agreement; and (v) failing to distribute any property or other assets to Daughtery in accordance with his ownership interests.

125. The actions of Sierra Verde and Dondero served to substantially defeat the expectations of Daugherty, as a member of Sierra Verde with a minority ownership. Daugherty's expectations were both reasonable under the circumstances and central to his decision to continue in the employ of HCM. Further, the actions of Sierra Verde and Dondero were burdensome, harsh, and wrongful conduct amounting to a lack of probity and fair dealing in the affairs of Sierra Verde to the prejudice of Daugherty. Sierra Verde and Dondero visibly departed from the standards of fair dealing on which Daugherty was entitle to rely.

126. By reason of the foregoing acts and conduct, Daugherty has suffered damages in an amount in excess of the minimum jurisdictional limits of this Court.

C. BREACH OF FIDUCIARY DUTY ON BEHALF OF SIERRA VERDE

127. At all relevant times, Daugherty was a holder of units in Sierra Verde, and may thus pursue a derivative action if Sierra Verde refuses to pursue action against Dondero.

128. As a majority shareholder and an officer of Sierra Verde, Dondero owed fiduciary duties of due care and loyalty to Sierra Verde.

129. Dondero engaged in unfair business transactions with respect to Sierra Verede, including: (i) unwinding and dissolving Sierra Verde; (ii) fraudulently inducing holders of units in Sierra Verde to agree to unwind Sierra Verde based upon false statements of fact; (iii) attempting to coerce Daugherty to agree to unwind Sierra Verde; (iv) failing to provide Daugherty with required quarterly reports; (v) committing multiple breaches of the Sierra Verde Agreement; (vi) failing to provide Daugherty with his voting rights under the Agreement; and

(vii) failing to distribute any property or other assets to Daughtery in accordance with his ownership interests.

130. Specifically, Dondero breached his duties of (i) candor; (ii) loyalty and utmost good faith; (iii) refraining from self-dealing; (iv) integrity of the strictest kind; and (v) full disclosure.

131. The transactions decreased the value of Sierra Verde's shares and caused damages to Sierra Verde and its unit holders.

D. IMPROPER WITHHOLDING OF CORPORATE BOOKS AND RECORDS

132. Defendant is a minority holder of units and has demanded to inspect Sierra Verde's books and records. Defendant's purpose for inspecting the company books and records is reasonably related to his ownership of a minority holder of units. Dondero refused to allow Daugherty access to the books and records; thus, they violated Tex. Bus. Corp. Act, Art. 2.44(B) and damaged Sierra Verde and its unit holders. Daugherty hereby requests that the Court compel Dondero to open the books and records of Sierra Verde to Daugherty for inspection and to award Daugherty his reasonable attorneys' fees pursuant to Tex. Bus. Corp. Act, Art. 2.44(B).

E. CONVERSION AGAINST SIERRA VERDE AND DONDERO

133. Daugherty, as a holder of units in Sierra Verde, owned, possessed, or had the right to immediate possession of his property.

134. Sierra Verde and Dondero, in engaging in the above described intentional conduct, wrongfully exercised dominion and control over Daugherty's personal property in a manner inconsistent with Daugherty's exclusive rights to the property. This conversion of Daugherty's property was willful, malicious and in conscious disregard of Daugherty's rights.

135. Consequently, Daugherty suffered damages in an amount in excess of the minimum jurisdictional limits of this Court. Further, Daugherty is entitled to an award of exemplary damages sufficient to punish Sierra Verde and Dondero and to serve as a deterrent to such conduct in the future.

F. UNJUST ENRICHMENT AGAINST SIERRA VERDE AND DONDERO

136. Sierra Verde and Dondero illegally received and retained benefits from Daugherty when they wrongfully dissolved and maintained the property and assets of Sierra Verde. The benefits obtained by Sierra Verde and Dondero were not gratuitous, and Sierra Verde and Dondero will be unjustly enriched if allowed to retain the benefits.

137. As a direct and proximate result of unjust enrichment, Daugherty has sustained damages in an amount in excess of the minimum jurisdictional limits of this Court.

G. BREACH OF FIDUCIARY DUTY AGAINST DONDERO

138. As Manager of Sierra Verde, Dondero controlled Sierra Verde. In engaging in the wrongful conduct described above, Dondero breached fiduciaty duties owed to Daugherty as a minority holder of units in Sierra Verde. A special relationship of trust and confidence exists between Daugherty and Dondero. Specifically, Dondero breached his duties of (i) candor; (ii) loyalty and utmost good faith; (iii) refraining from self-dealing; (iv) integrity of the strictest kind; and (v) full disclosure. Dondero's breaches of these duties has materially harmed Daugherty and unlawfully benefited Dondero and Sierra Verde.

139. Daugherty is entitled to recover damages sustained by him as a result of Dondero's breach of fiduciary duty. In addition to actual damages, Daugherty is also entitled to

recover exemplary damages because Dondero intentionally and maliciously violated the fiduciary duties he owed Daugherty.

VII.

HERA CAUSES OF ACTION

140. For each cause of action herein, Daugherty re-alleges and incorporates by reference each and every allegation and statement contained in the foregoing paragraphs as if fully set forth herein.

A. BREACH OF CONTRACT AGAINST HCM AND HERA

141. On October 26, 2009, a Limited Liability Company Agreement ("Agreement") was entered into by HERA and HCM and other members of the board of HERA, including Daugherty. The purpose of the HERA Plan was to receive and hold assets contributed by HCM and to distribute proceeds of those assets from time to time to create a retention initiative. Daugherty was granted units of ownership in the HERA Plan. The unilateral decision of HCM and HERA to amend the Agreement to divest Daugherty of his valuable ownership interest constitutes a material breach of the Agreement.

142. As a result of this breach of contract, Daugherty has been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

B. SHAREHOLDER OPPRESSION AGAINST DONDERO, BOYCE AND BRITAIN

143. Dondero, as well as, Boyce and Britain, who were members of HERA's board of directors, which is effectively controlled by Dondero, engaged in oppressive conduct by unilaterally amending the Agreement to suspend distributions for any holder of units who commenced litigation, initiated a dispute or made a claim related to HERA or its management or

members. This conduct substantially defeated the expectations of Daugherty, as a member of the HERA Plan with a minority ownership. Daugherty's expectations were both reasonable under the circumstances and central to his decision to join HCM. Further, these defendants engaged in burdensome, harsh, and/or wrongful conduct and a lack of probity and fair dealing in the company's affairs to the prejudice of Daugherty. Defendants visibly departed from the standards of fair dealing on which Daugherty was entitled to rely.

144. As a direct and proximate result, Daugherty has suffered damages in an amount in excess of the minimum jurisdictional limits of this Court.

C. DERIVATIVE CLAIM FOR BREACH OF FIDUCIARY DUTY

145. At all relevant times, Daugherty was a member of HERA with a minority ownership.

146. As members of HERA's Board of Directors, Dondero, Boyce, and Britain owed fiduciary duties of due care and loyalty to Sierra Verde.

147. Dondero, Boyce, and Britain enganged in unfair business transactions with respect to HERA by unilaterally amending the Agreement to suspend distributions for any holder of units who commenced litigation, initiated a dispute or made a claim related to HERA or its management or members, making it impossible for anyone to enforce collections through the rewards program.

148. By engaging in the aforementioned conduct, Dondero, Boyce, and Britain breached their duties of (i) candor; (ii) loyalty and utmost good faith; (iii) refraining from self-dealing; (iv) integrity of the strictest kind; and (v) full disclosure.

149. The transactions decreased the value of ownership in HERA and caused damages to HERA and its members.

D. CONVERSION AGAINST HERA, HCM, DONDERO, BOYCE AND BRITAIN

150. Daugherty owned, possessed, or had the right to immediate possession of his property, including his interests in HERA.

151. These Defendants wrongfully exercised dominion and control over Daugherty's personal property in a manner inconsistent with Daugherty's exclusive rights to the property. Daugherty suffered injury in an amount in excess of the minimum jurisdictional limits of this Court. Defendants' conversion of Daugherty's property was willful, malicious and in conscious disregard of Daugherty's rights. Consequently, Daugherty is entitled to an award of exemplary damages sufficient to punish HERA, HCM, Dondero, Boyce and Britain and to serve as a deterrent to such conduct in the future.

VIII.

LTIP CAUSES OF ACTION

152. For each cause of action herein, Daugherty re-alleges and incorporates by reference each and every allegation and statement contained in the foregoing paragraphs as if fully set forth herein.

A. BREACH OF CONTRACT AGAINST HCM

153. Effective January 1, 2005, HCM established a long-term incentive program for selected key employees, including Daugherty. The LTIP was established to create positive morale and teamwork, to attract and retain key talent and to encourage achievement of common goals. Daugherty was granted long-term incentive units in the LTIP. HCM's unilateral decision

to divest Daugherty of his valuable ownership interest in units held by him constitutes a material breach of the parties' agreement.

154. As a result of this breach of contract, Daugherty has been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

B. CONVERSION AGAINST HCM

155. Daugherty owned, possessed, or had the right to immediate possession of his property, including his interests in the LTIP.

156. HCM wrongfully exercised dominion and control over Daugherty's personal property in a manner inconsistent with Daugherty's exclusive rights to the property. Daugherty suffered injury in an amount in excess of the minimum jurisdictional limits of this Court. HCM's conversion of Daugherty's property was willful, malicious and in conscious disregard of Daugherty's rights. Consequently, Daugherty is entitled to an award of exemplary damages sufficient to punish HCM and to serve as a deterrent to such conduct in the future.

IX.

ATTORNEYS' FEES AGAINST HCM, DONDERO, SIERRA VERDE AND HERA

157. Daugherty seeks recovery of the costs and reasonable and necessary attorneys' fees incurred in connection with this action pursuant to Sections 37.009 and 38.001 of the Texas Civil Practice and Remedies Code.

X.

REQUEST FOR DISCLOSURE

158. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, HCM, HERA, Sierra Verde, Dondero, Boyce and Britain are hereby requested to disclose the information or material

described in Rule 194.2. This is a continuing duty and requires supplementation in accordance with the Texas Rules of Civil Procedure.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Daugherty respectfully requests that this Honorable Court grant the following relief:

Upon trial of this cause, that the Court make an award in favor of Daugherty and against HCM, HERA, Sierra Verde, Dondero, Boyce and Britain for the following:

a. Actual damages and exemplary damages;

b. A declaratory judgment that the covenants not to compete are unenforceable under Section 15.50 of the Texas Business & Commerce Code;

c. Reasonable and necessary attorneys' fees and costs incurred; prejudgment and post judgment interest as allowed by law; and,

d. Any and all further relief the Court deems just and equitable.

Respectfully submitted,

By: _____

James W. Ribman
State Bar No. 00797762
Ruth Ann Daniels
State Bar No. 15109200
Looper Reed & McGraw P.C.
1601 Elm Street, Suite 4600
Dallas, Texas 75201
(214) 954-4135
(214) 953-1332 (Fax)

ATTORNEYS FOR PATRICK DAUGHERTY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been transmitted by certified mail – return receipt requested to counsel for Defendant, Marc D. Katz and Aaron J. Epstein, Andrews Kurth LLP, 1717 Main St., Suite 3700, Dallas, Texas 75201, on this 22nd day of May, 2012.

James W. Ribman

EXHIBIT 46

CAUSE NO. 12-04005

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**IN THE DISTRICT COURT OF**
Plaintiff,	§	
v.	§	
PATRICK DAUGHERTY,	§	
Defendant and Counter-Plaintiff,	§	
v.	§	**DALLAS COUNTY, TEXAS**
SIERRA VERDE, LLC, HIGHLAND EMPLOYEE RETENTION ASSETS LLC, JAMES DONDERO, PATRICK BOYCE, AND WILLIAM L. BRITAIN,	§	
Third-Party Defendants.	§	**68th JUDICIAL DISTRICT**

ORDER ON AGREED MOTION TO PARTIALLY VACATE THE FINAL JUDGMENT DATED JULY 14, 2014

On this day the Court considered the *Agreed Motion to Partially Vacate the Final Judgment Dated July 14, 2014* (the "Motion") filed by plaintiff Highland Capital Management, L.P. ("Highland") and defendant Patrick Daugherty ("Daugherty"). Capitalized terms not defined in this Order shall have the meanings ascribed to them in the Motion. The Court finds that it has plenary jurisdiction to enter this Order on the Motion because the Motion is agreed to by Highland and Daugherty and only affects the portion of the Judgment relating to Highland's claims against Daugherty. The Court further finds that it has plenary jurisdiction to enter this Order based on its plenary jurisdiction to enforce the Judgment, including the permanent injunction against Daugherty that was included in the Judgment. Additionally, the Court finds that it has authority to issue this Order modifying the permanent injunction contained in the Judgment because of

changed circumstances that now exist. The Court also finds that Highland and Daugherty stipulated that the Motion constituted an agreement pursuant to Tex. R. Civ. P. 11, and the Court has plenary jurisdiction to enforce that agreement irrespective of whether the Court lost its plenary jurisdiction over the Judgment itself. *See Coale v. Scott*, 331 S.W.3d 829, 831-32 (Tex. App.—Amarillo 2011, no pet.) ("Irrespective of whether a trial court lost its plenary jurisdiction over its judgment, the trial court's authority to approve a Rule 11 agreement does not depend on whether it has such jurisdiction").

IT IS THEREFORE ORDERED that the following portions of the Judgment are hereby vacated:

a. The entirety of the second full paragraph on Page 2 of the Judgment, which begins "The Court, after considering the jury's findings regarding Daugherty's breaches of contract and breaches of fiduciary duty . . .";

b. The entirety of the permanent injunction rendered against Daugherty in the third full paragraph on Page 2 of the Judgment, which begins "It is therefore further ORDERED that Daugherty be and hereby is commanded to cease and desist from . . .";

c. The entirety of the fourth and fifth full paragraphs on Page 2 of the Judgment awarding Highland a monetary judgment against Daugherty for reasonable and necessary attorney's fees, as well as post-judgment interest on that award.[1]

[1] Daugherty previously satisfied the monetary judgment awarded to Highland, and Highland filed a release of the monetary judgment. Although Highland and Daugherty agree to vacate the monetary judgment awarded to Highland, Highland is not required to reimburse Daugherty for his prior satisfaction of the monetary judgment. *See* Motion at 3, n.1. To the extent Daugherty is entitled to indemnification from any liabilities, losses, and damages allegedly incurred by him for actions taken in connection with Highland's business, including the liabilities Daugherty allegedly incurred in connection with the action and the Judgment, the Parties have represented that all of Daugherty's claims

IT IS FURTHER ORDERED that the jury's answers to Questions 1, 2, 5, 6, 9 and 12 in the jury's verdict, which was attached as Exhibit 1 to the Judgment, are hereby vacated.

IT IS FURTHER ORDERED that if either Party has any pending motions seeking relief against the other Party, such motions are denied as moot in conformity with their Settlement Agreement.

IT IS FURTHER ORDERED that Highland shall not seek to enforce the permanent injunction in any manner.

IT IS FURTHER ORDERED that this Order shall not affect any provision or term of the Judgment not specifically vacated herein, and all such provisions shall remain in full force and effect.

SIGNED THIS ____ DAY OF MARCH 2022.

HONORABLE MARTIN HOFFMAN
JUDGE PRESIDING

against the Highland Released Parties, including such indemnification claims, were fully and finally resolved in the Settlement Agreement approved by the Court in Highland's Bankruptcy Case.

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Suzy Langley on behalf of Andrew York
Bar No. 24051554
slangley@grayreed.com
Envelope ID: 62716775
Status as of 3/18/2022 8:08 AM CST

Associated Case Party: HIGHLAND CAPITAL MANAGEMENT LP

Name	BarNumber	Email	TimestampSubmitted	Status
Scott Gant		sgant@bsfllp.com	3/17/2022 3:58:09 PM	SENT
Zachery Z.Annable		zannable@haywardfirm.com	3/17/2022 3:58:09 PM	SENT

Associated Case Party: PATRICK DAUGHERTY

Name	BarNumber	Email	TimestampSubmitted	Status
Ruth AnnDaniels		rdaniels@lrmlaw.com	3/17/2022 3:58:09 PM	SENT
Andrew K.York		dyork@grayreed.com	3/17/2022 3:58:09 PM	SENT
James W.Ribman		jribman@lrmlaw.com	3/17/2022 3:58:09 PM	ERROR

Associated Case Party: HIGHLAND EMPLOYEE RETENTION ASSETS LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Marc Katz		marckatz@andrewskurth.com	3/17/2022 3:58:09 PM	SENT

Associated Case Party: Dow Jones & Company, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
Marc AFuller		mfuller@velaw.com	3/17/2022 3:58:09 PM	SENT
Tom Leatherbury		tleatherbury@velaw.com	3/17/2022 3:58:09 PM	SENT
Megan Coker		megancoker@velaw.com	3/17/2022 3:58:09 PM	ERROR

Case Contacts

Name

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Suzy Langley on behalf of Andrew York
Bar No. 24051554
slangley@grayreed.com
Envelope ID: 62716775
Status as of 3/18/2022 8:08 AM CST

Case Contacts

William JMoore
Marc DKatz
Drew York
RUTH ANNDANIELS
RACHEL CROCKETT
DREW YORK
WILLIAM CHANEY
SHONN BROWN
Jonathan Childers
Isabel Crosby
Jason Regas
Ruth Daniels
Charles Frazier
Deborah AJohnson
Scott A.Brister
Dot Young
Crystal Jamison Woods
Andrea Meshonn Evans Brown
DEBBIE REESE
Susan Langley
Jonathan R. Childers
Beverly Congdon
Michael K.Hurst
Rachel Crockett
James Ribman

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Suzy Langley on behalf of Andrew York
Bar No. 24051554
slangley@grayreed.com
Envelope ID: 62716775
Status as of 3/18/2022 8:08 AM CST

Case Contacts

Nancy Ward		nward@grayreed.com	3/17/2022 3:58:09 PM	SENT
Brian Shaw		shaw@clousedunn.com	3/17/2022 3:58:09 PM	SENT
Brian Shaw		shaw@roggedunngroup.com	3/17/2022 3:58:09 PM	SENT
Sherry Faulkner		sherry.faulkner@us.dlapiper.com	3/17/2022 3:58:09 PM	SENT
zachary Annable		zannable@haywardfirm.com	3/17/2022 3:58:09 PM	SENT
J Morris		jmorris@pszjlaw.com	3/17/2022 3:58:09 PM	SENT
James Moseley		jmoseley@grayreed.com	3/17/2022 3:58:09 PM	SENT
Marc D.Katz		marc.katz@dlapiper.com	3/17/2022 3:58:09 PM	SENT
Erica Eason-Hall		erica.eason-hall@dlapiper.com	3/17/2022 3:58:09 PM	SENT
Laurie Johnson		laurie.johnson@dlapiper.com	3/17/2022 3:58:09 PM	SENT
Isabel A.Crosby		isabel.crosby@dlapiper.com	3/17/2022 3:58:09 PM	SENT
Dot Young		dot.young@dlapiper.com	3/17/2022 3:58:09 PM	SENT

EXHIBIT 47

From: Scott Wilson <SWilson@hcmlp.com>
To: Brian Collins <BCollins@hcmlp.com>, Patrick Boyce <PBoyce@hcmlp.com>
Subject: Draft TL Q&A
Date: Thu, 26 Feb 2009 21:54:02 +0000
Importance: Normal
Attachments: Potential_TL_compensation_questions_and_answers.doc

---

Please let me know what you think…. We had onemore potential question but I would prefer to share it verbally with you

Brian will share will Swadley to give him a chance eto review, if you approve, Patrick. I've already incorporated hisanswers from my previous discussions with him in this version.

_____

Scott Wilson
Principal, Internal Strategy
Highland Capital Management, L.P.
13455 Noel Road, Suite 800
Dallas, TX 75240
Phone: (972) 419-4437
Fax: (972) 628-4147
Email: swilson@hcmlp.com

Potential TL compensation questions and answers (written as if they were answered by Jim and Mark)

- **Q: Why am I not getting any cash compensation until at least May?**
  - As part of our ongoing negotiations with our bank group, we needed to reduce our total compensation paid in February
  - Rather than further reduce bonus amounts across the board, or even within just TLs, we felt that any delay should be felt by the firm's leaders more than the majority of our employees
  - Therefore, we felt it was best to delay the cash payments to TLs until we receive our next flow of fees in May
- **How did you determine my bonus?**
  - We evaluated each TL's performance in 2008, using your own self-evaluations, financial results, results of other efforts/projects led, feedback from around the firm, and our own experiences. Then we set a target total cash compensation for each TL based on their performance. The total cash compensation includes base salary from 2008, the 2008 Defined Benefit contribution, any Waiver and Release payments, other bonuses or compensation given in 2008, as well as a cash bonus award, and any anticipated estimated upcoming tax refund from taxes paid by partners in 2006 and 2007 via a distribution from Highland.
  - From this target total cash compensation, we subtracted all other forms of compensation listed above except for the cash bonus award, and if there was any additional amount remaining, made the cash bonus award equal to that remaining amount
- **Why would you consider the tax refund as part of compensation? Isn't the refund in my name?**
  - When you paid taxes in 2006 and 2007 that are now potentially subject to a refund, you received a distribution from Highland to pay those taxes. Now we believe that the taxes were overpaid, due to

subsequent losses, and as such, Highland distributed an excessive amount to you to pay the taxes. Accordingly, any difference, now or then, ends up being extra compensation to you, and keeping the refund represents an extra compensation to you from Highland **(NOTE: this is by no means well researched legal argument. The Tax Dept. is investigating various legal and tax rationale in this matter, and we can discuss various options on this argument further in a verbal conversation)**

- **Is the tax refund amount listed what I should expect to receive?**
  - It is the Tax Department's current best estimate. As we get closer to completing the work to generate K-1 statements for you, we will have a better sense of the amounts (your tax professional would then use the K-1 statement to file your refund request).
  - The specific amount for each person will vary based on each person's individual tax situation and rates in the years 2006 and 2007, so there is not a single answer. The number shown assumes an estimated 27% tax rate, and then grosses-up the tax refund at that rate to show a true, apples-to-apples number vs. the other forms of compensation (which are pre-tax, while the tax refund is not taxable). Each person's own actual refund may vary based on their own effective tax rate
  - Furthermore, these tax refund amounts are not guaranteed, as the IRS still has the authority to audit our claimed losses and resulting refunds due
- **What would happen if my actual tax refund is different from this estimate, or if the timing is significantly delayed? Would I be "trued-up" if is it less? What if it is more?**
  - If the actual refund ends up being different than the estimated amount, then we would consider what action to take on a case-by-case basis, considering several factors including the difference in the refund amount and if that creates any "gap" between the target total cash compensation and your actual cash compensation would be.

Keep in mind one thing – the tax refund would be one lump sum, so it would be effectively a much greater amount of money than you may have received as a bonus in past years, which have been paid in installments. By getting the money in 1 installment, at time 0, we think this creates a form of compensation that you will value much more.

- **When can I expect my tax refund? My cash bonus award?**
  - The IRS has 90 days to respond to a refund filing. A response may be paying the refund, or it may be additional clarifying questions or even an audit request. You can file for your refund once you have received a K-1 statement from Highland. The tax refund covers tax years 2006 and 2007, and these statements from each of these years may be ready at different times. We expect to have an estimated version (**of 2006, 2007, or both?)** ready within the next two weeks **(note: this is from Rick, who also says that he, Patrick B, others should have a conversation to discuss this process and how we would want to communicate this to others partners)**
  - The first installment of the cash bonus award will follow our next CLO flow payments, which is May 1. Like everyone else in the firm with bonuses greater than $50,000, the cash bonus will be paid in 4 installments: early May 2009, August 31, 2009, February 26, 2010, and August 31, 2010.
- **What is the 2009 Deferred Compensation / Retention Award?**
  - Three year cliff vest (100% vesting occurs on February 28, 2012)
  - Invested 50% into Restoration and 50% into the Real Estate Fund
  - Awarded under terms of the Highland Capital Management, L.P. and Affiliates Short-Term Incentive Plan (STIP)
  - Deferred Compensation is composed of:
    - Retention Award, which is designed to enhance the alignment of interests between the firm and key performers

  - Retention Award - Catch-up, which maintains alignment of interests for previously awarded Option IT and STIP and recognizes decline in value of those awards

- **Why Restoration and Real Estate?**
  - We feel these funds are the most appropriate at this time for the Retention structure and purpose
- **Why am I finding out that I will not get any 2008 cash bonus paid in February now instead of earlier in the month?**
  - As most of you are aware, our discussions with our bank group have consistently evolved in recent days and weeks. This created enough uncertainty to prevent us from committing to anything earlier, although we were happy to be able to pay the last portion of the 2007 cash award earlier than expected

EXHIBIT 48

HIGHLAND CAPITAL MANAGEMENT, L.P.
HIGHLAND CAPITAL MANAGEMENT SERVICES, INC.
13455 Noel Road, Suite 1300
Two Galleria Tower
Dallas, Texas 75240

December 31, 2004

Patrick Daugherty
3621 Cornell Avenue
Dallas, TX 75205

Dear Pat:

Highland Capital Management, L.P. (the "***Partnership***") has agreed to grant you a percentage interest as a limited partner in the Partnership (the "***Interest***") that will be treated as a "profits interest" for U.S. federal income tax purposes. The rights and obligations associated with the ownership of the Interest are governed by the Second Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P. (the ***"LP Agreement"***), as well as the Amended and Restated Buy-Sell and Redemption Agreement Among Highland Capital Management, L.P. and its Limited Partners (the "***Buy-Sell Agreement***"). We have provided you with a copy of the LP Agreement and the Buy-Sell Agreement.

Highland Capital Management Services, Inc. (***"HCMS"***) also has provided you with a draft of your Amended and Restated Employment Agreement (the ***"Employment Agreement"***), the Second Amended and Restated Long Term Incentive Plan (the ***"LTIP"***), and the Letter Agreement to amend your Award Agreement under the LTIP (the ***"Letter Agreement"***)

In connection with your receipt of the Interest, and the revisions to your Employment Agreement, the LTIP and your Letter Agreement, by signing below, you acknowledge the following:

1. By executing this letter, you hereby represent and warrant to the Partnership and to each of the partners of the Partnership (the ***"Partners"***) that you are acquiring your Interest for investment, solely for your own account, with the intention of holding such Interest for investment and not with a view to, or for resale in connection with, any distribution or public offering or resale of any portion of the Interest within the meaning of the Securities Act of 1933, as amended (the "***Securities Act***"), or any other applicable federal or state securities law, rule or regulation (collectively, the "***Security Laws***").

2. By executing this letter, you hereby represent and warrant to the Partnership and to each of the Partners that you have adequate means of providing for your current needs and possible personal contingencies and have no need now and anticipate no need in the foreseeable future to sell your Interest. You hereby acknowledge that you have carefully evaluated your financial resources and investment position and the risks associated with an investment in the Partnership and you are able to bear the economic risks of this investment and consequently, without limiting the generality of the foregoing, you are able to hold your Interest for an indefinite period of time and have a sufficient net worth to sustain a loss of your entire investment in the Partnership in the event such loss should occur.

3. By executing this letter, you hereby represent and warrant to the Partnership and to each of the other Partners that you are aware that you must bear the economic risk of your investment in the Partnership for an indefinite period of time because the Interests have not been registered under the Securities Act, or under any Security Laws. Further, you hereby acknowledge that you understand that only the Partnership can take action so as to register the Interests on behalf of the Partnership and the Partnership is under no obligation to do so and does not propose to do so. You hereby acknowledge that you understand that neither the Securities and Exchange Commission nor the securities administrator of any state has made any finding or determination relating to the fairness or desirability of an investment in the Partnership and that the Interests have not been approved or disapproved by the Securities and Exchange Commission or by any other federal or state agency, and no such agency has passed on the accuracy or adequacy of the Agreement.

4. By executing this letter, you hereby represent and warrant to the Partnership, to each of the other Partners and HCMS that prior to signing this letter:

(a) You have received a copy of (i) the LP Agreement, (ii) the Buy-Sell Agreement, (iii) the LTIP, (iv) your Letter Agreement, and (iv) your Employment Agreement. The LP Agreement, the Buy-Sell Agreement, LTIP, your Letter Agreement and your Employment Agreement shall be referred to as the "***Documents***";

(b) You have read the Documents carefully and are fully understand their contents;

(c) You have had the opportunity to obtain any additional information necessary to verify the accuracy of the information regarding an investment in the Partnership, and you hereby further acknowledge that the Partnership has made available to you the opportunity to obtain additional information to evaluate the merits and risks of your investment in the Partnership.

(d) You have been given the opportunity to meet with James D. Dondero and Mark K. Okada, both acting in their capacity as officers and directors of Strand Advisors, Inc., the sole general partner of the Partnership, to ask any questions regarding the terms and conditions of an investment in the Partnership, the LP Agreement and the Buy-Sell Agreement, and all such questions have been answered to your full satisfaction; and

(e) You have been given the opportunity to meet with James D. Dondero and Mark K. Okada, both acting in their capacity as officers and directors of HCMS, to ask any questions regarding the terms and conditions of the LTIP, your Letter Agreement, and your Employment Agreement, and all such questions have been answered to your full satisfaction.

5. By executing this letter, you hereby represent and warrant to the Partnership and each of the other Partners that you are aware that under the terms of the Buy-Sell Agreement, James D. Dondero and Mark K. Okada have the sole right to set the value of your Partnership Interest, which will affect the amount you will receive for the Partnership Interest on any voluntary or involuntary disposition of your Partnership Interest pursuant to the terms of the Buy-Sell Agreement. You acknowledge that (i) on February 29, 2004, the Partnership has an Agreed Value (as defined in the Buy-Sell Agreement) of $125,000,000 and (ii) on May 27, 2004 and continuing through the date hereof, the Partnership has an Agreed Value of $200,000,000.

6. By executing this letter, you hereby represent and warrant to (i) the Partnership and each of the other Partners and (ii) HCMS that you understand:

   (a) The rights, liabilities and obligation of the parties under the Employment Agreement, the Buy-Sell Agreement, and the LTIP in the event of a termination for Cause (as defined in the Buy-Sell Agreement, the Employment Agreement, and the LTIP); and

   (b) The parties' rights, liabilities and obligations under any of the confidentiality, non-competition, non-solicitation and non-recruitment provisions found in the Buy-Sell Agreement, the Employment Agreement, and the LTIP.

7. Please note that substantial amendments to the LTIP will be required to comply with the new tax laws addressing deferred compensation set forth in the American Jobs Creation Act of 2004. Thus, by executing this letter, you acknowledge that the LTIP will need to be amended in 2005 and operated throughout 2005 to be in compliance with these new tax laws, and you agree to cooperate in any manner necessary to effectuate such amendments and operation.

8. By executing this letter, you hereby represent that you are an Accredited Investor, as such term is defined in Section 501 of Regulation D promulgated under the Securities Act.

9. You acknowledge that you have been encouraged by the Partnership and HCMS to seek independent legal counsel to assist you in reviewing the Documents and this letter. You further acknowledge and agree that each of the foregoing representations, warranties and acknowledgments have been made only after consultation with your advisors and consultants.

Sincerely,

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc.,
its General Partner

By: _____
James D. Dondero,
President

HIGHLAND CAPITAL MANAGEMENT SERVICES, INC.

By: _____
James D. Dondero,
President

I HAVE READ THE ABOVE LETTER AND AGREE TO ITS TERMS HEREIN AS EVIDENCED BY MY SIGNATURE.

Patrick Daugherty

Date: December 31, 2004

EXHIBIT 49

CLAIMANT TRUST AGREEMENT

This Claimant Trust Agreement, effective as of August 11, 2021 (as may be amended, supplemented, or otherwise modified in accordance with the terms hereof, this "Agreement"), by and among Highland Capital Management, L.P. (as debtor and debtor-in-possession, the "Debtor"), as settlor, and James P. Seery, Jr., as trustee (the "Claimant Trustee"), and Wilmington Trust, National Association, a national banking association ("WTNA"), as Delaware trustee (in such capacity hereunder, and not in its individual capacity, the "Delaware Trustee," and together with the Debtor and the Claimant Trustee, the "Parties") for the benefit of the Claimant Trust Beneficiaries entitled to the Claimant Trust Assets.

RECITALS

WHEREAS, on October 16, 2019, Highland Capital Management, L.P. filed with the United States Bankruptcy Court for the District of Delaware, a voluntary petition for relief under chapter 11 of the Bankruptcy Code, which case was subsequently transferred to the Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court") and captioned *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (the "Chapter 11 Case");

WHEREAS, on November 24, 2020, the Debtor filed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1472] (as may be amended, supplemented, or otherwise modified from time to time, the "Plan"),[1] which was confirmed by the Bankruptcy Court on February 22, 2021, pursuant to the *Findings of Fact and Order Confirming Plan of Reorganization for the Debtor* [Docket No. 1943] (the "Confirmation Order");

WHEREAS, this Agreement, including all exhibits hereto, is the "Claimant Trust Agreement" described in the Plan and shall be executed on or before the Effective Date in order to facilitate implementation of the Plan; and

WHEREAS, pursuant to the Plan and Confirmation Order, the Claimant Trust Assets are to be transferred to the Claimant Trust (each as defined herein) created and evidenced by this Agreement so that (i) the Claimant Trust Assets can be held in a trust for the benefit of the Claimant Trust Beneficiaries entitled thereto in accordance with Treasury Regulation Section 301.7701-4(d) for the objectives and purposes set forth herein and in the Plan; (ii) the Claimant Trust Assets can be monetized; (iii) the Claimant Trust will transfer Estate Claims to the Litigation Sub-Trust to be prosecuted, settled, abandoned, or resolved as may be determined by the Litigation Trustee in accordance with the terms of the Litigation Sub-Trust Agreement, for the benefit of the Claimant Trust; (iv) proceeds of the Claimant Trust Assets, including Estate Claims, may be distributed to the Claimant Trust Beneficiaries[2] in accordance with the Plan; (v) the Claimant Trustee can resolve

[1] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan. The confirmed Plan included certain amendments filed on February 1, 2021. *See Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)*, Docket No. 1875, Exh. B.

[2] For the avoidance of doubt, and as set forth in the Plan, Holders of Class A Limited Partnership Interests and Class B/C Limited Partnership Interests will be Claimant Trust Beneficiaries only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent applicable, post-petition interest in accordance with the terms and conditions set forth herein and in the Plan.

Disputed Claims as set forth herein and in the Plan; and (vi) administrative services relating to the activities of the Claimant Trust and relating to the implementation of the Plan can be performed by the Claimant Trustee.

DECLARATION OF TRUST

NOW, THEREFORE, in order to declare the terms and conditions hereof, and in consideration of the premises and mutual agreements herein contained, the confirmation of the Plan and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Debtor, the Claimant Trustee, and the Delaware Trustee have executed this Agreement for the benefit of the Claimant Trust Beneficiaries entitled to share in the Claimant Trust Assets and, at the direction of such Claimant Trust Beneficiaries as provided for in the Plan.

TO HAVE AND TO HOLD unto the Claimant Trustee and his successors or assigns in trust, under and subject to the terms and conditions set forth herein and for the benefit of the Claimant Trust Beneficiaries, and for the performance of and compliance with the terms hereof and of the Plan; provided, however, that upon termination of the Claimant Trust in accordance with Article IX hereof, this Claimant Trust Agreement shall cease, terminate, and be of no further force and effect, unless otherwise specifically provided for herein.

IT IS FURTHER COVENANTED AND DECLARED that the Claimant Trust Assets are to be strictly held and applied by the Claimant Trustee subject to the specific terms set forth below.

ARTICLE I.
DEFINITION AND TERMS

1.1 Certain Definitions. Unless the context shall otherwise require and except as contained in this Section 1.1 or as otherwise defined herein, the capitalized terms used herein shall have the respective meanings assigned thereto in the "Definitions," Section 1.1 of the Plan or if not defined therein, shall have the meanings assigned thereto in the applicable Section of the Plan. For all purposes of this Agreement, the following terms shall have the following meanings:

(a) "Acis" means collectively, Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

(b) "Bankruptcy Court" has the meaning set forth in the Recitals hereof.

(c) "Cause" means (i) a Person's willful failure to perform his material duties hereunder (which material duties shall include, without limitation, with respect to a Member, or to the extent applicable, the Claimant Trustee, regular attendance at regularly scheduled meetings of the Oversight Board), which is not remedied within 30 days of notice; (ii) a Person's commission of an act of fraud, theft, or embezzlement during the performance of his or her duties hereunder; (iii) a Person's conviction of a felony (other than a felony that does not involve fraud, theft, embezzlement, or jail time) with all appeals having been exhausted or appeal periods lapsed; or (iv) a Person's gross negligence, bad faith, willful misconduct, or knowing violation of law in the performance of his or her duties hereunder.

(d) "Claimant Trust Agreement" means this Agreement.

(e) "Claimant Trustee" means James P. Seery, Jr., as the initial "Claimant Trustee" hereunder and as defined in the Plan, and any successor Claimant Trustee that may be appointed pursuant to the terms of this Agreement.

(f) "Claimant Trust" means the "Highland Claimant Trust" established in accordance with the Delaware Statutory Trust Act and Treasury Regulation Section 301.7701-4(d) pursuant to this Agreement.

(g) "Claimant Trust Assets" means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

(h) "Claimant Trust Beneficiaries" means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent applicable, post-petition interest at the federal judgment rate in accordance with the terms and conditions set forth herein, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

(i) "Claimant Trust Expense Cash Reserve" means $[•] million in Cash to be funded pursuant to the Plan into a bank account of the Claimant Trust on or before the Effective Date for the purpose of paying Claimant Trust Expenses in accordance herewith.

(j) "Claimant Trust Expenses" means the costs, expenses, liabilities and obligations incurred by the Claimant Trust and/or the Claimant Trustee in administering and conducting the affairs of the Claimant Trust, and otherwise carrying out the terms of the Claimant Trust and the Plan on behalf of the Claimant Trust, including without any limitation, any taxes owed by the Claimant Trust, and the fees and expenses of the Claimant Trustee and professional persons retained by the Claimant Trust or Claimant Trustee in accordance with this Agreement.

(k) "Committee Member" means a Member who is/was also a member of the Creditors' Committee.

(l) "Conflicted Member" has the meaning set forth in Section 4.6(c) hereof.

(m) "Contingent Trust Interests" means the contingent interests in the Claimant Trust to be distributed to Holders of Class A Limited Partnership Interests and Class B/C Limited Partnership Interests in accordance with the Plan.

(n) "Creditors' Committee" means the Official Committee of Unsecured Creditors appointed pursuant to section 1102 of the Bankruptcy Code in the Chapter 11 Case, comprised of Acis, Meta-e Discovery, the Redeemer Committee and UBS.

(o) "Delaware Statutory Trust Act" means the Delaware Statutory Trust Act 12 Del C. §3801, et seq. as amended from time to time.

(p) "Delaware Trustee" has the meaning set forth in the introduction hereof.

(q) "Disability" means as a result of the Claimant Trustee's or a Member's incapacity due to physical or mental illness as determined by an accredited physician or psychologist, as applicable, selected by the Claimant Trustee or the Member, as applicable, the Claimant Trustee or such Member has been substantially unable to perform his or her duties hereunder for three (3) consecutive months or for an aggregate of 180 days during any period of twelve (12) consecutive months.

(r) "Disinterested Members" has the meaning set forth in Section 4.1 hereof.

(s) "Disputed Claims Reserve" means the reserve account to be opened by the Claimant Trust on or after the Effective Date and funded in an initial amount determined by the Claimant Trustee [(in a manner consistent with the Plan and with the consent of a simple majority of the Oversight Board)] to be sufficient to pay Disputed Claims under the Plan.

(t) "Employees" means the employees of the Debtor set forth in the Plan Supplement.

(u) "Employee Claims" means any General Unsecured Claim held by an Employee other than the Claims of the Senior Employees subject to stipulations (provided such stipulations are executed by any such Senior Employee of the Debtor prior to the Effective Date).

(v) "Estate Claims" has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [Docket No. 354].

(w) "Equity Trust Interests" has the meaning given to it in Section 5.1(c) hereof.

(x) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(y) "General Unsecured Claim Trust Interests" means interests in the Claimant Trust to be distributed to Holders of Allowed Class 8 General Unsecured Claims (including Disputed General Unsecured Claims that are subsequently Allowed) in accordance with the Plan.

(z) "GUC Beneficiaries" means the Claimant Trust Beneficiaries who hold General Unsecured Claim Trust Interests.

(aa) "GUC Payment Certification" has the meaning given to it in Section 5.1(c) hereof.

(bb) "HarbourVest" means, collectively, HarbourVest 2017 Global Fund, L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment, L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners, L.P.

(cc) "Investment Advisers Act" means the Investment Advisers Act of 1940, as amended.

(dd) "Investment Company Act" means the Investment Company Act of 1940, as amended.

(ee) "Litigation Sub-Trust" means the sub-trust created pursuant to the Litigation Sub-Trust Agreement, which shall hold the Claimant Trust Assets that are Estate Claims and investigate, litigate, and/or settle the Estate Claims for the benefit of the Claimant Trust.

(ff) "Litigation Sub-Trust Agreement" means the litigation sub-trust agreement to be entered into by and between the Claimant Trustee and Litigation Trustee establishing and setting forth the terms and conditions of the Litigation Sub-Trust and governing the rights and responsibilities of the Litigation Trustee.

(gg) "Litigation Trustee" means Marc S. Kirschner, and any successor Litigation Trustee that may be appointed pursuant to the terms of the Litigation Sub-Trust Agreement, who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

(hh) "Managed Funds" means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to the Plan; *provided, however,* that the Highland Select Equity Fund, L.P. (and its direct and indirect subsidiaries) will not be considered a Managed Fund for purposes hereof.

(ii) "Material Claims" means the Claims asserted by UBS, Patrick Hagaman Daugherty, Integrated Financial Associates, Inc., and the Employees.

(jj) "Member" means a Person that is member of the Oversight Board.

(kk) "New GP LLC" means the general partner of the Reorganized Debtor.

(ll) "Oversight Board" means the board comprised of five (5) Members established pursuant to the Plan and Article III of this Agreement to oversee the Claimant Trustee's performance of his duties and otherwise serve the functions set forth in this Agreement and those of the "Claimant Trust Oversight Committee" described in the Plan. Subject to the terms of this Agreement, the initial Members of the Oversight Board shall be: (i) Eric Felton, as representative of the Redeemer Committee; (ii) Josh Terry, as representative of Acis; (iii) Elizabeth Kozlowski, as representative of UBS; (iv) Paul McVoy, as representative of Meta-e Discovery; and (v) David Pauker.

(mm) "Plan" has the meaning set forth in the Recitals hereof.

(nn) "Privileges" means the Debtor's rights, title and interests in and to any privilege or immunity attaching to any documents or communications (whether written or oral) associated with any of the Estate Claims or Employee Claims, including, without limitation, to,

attorney-client privilege and work-product privilege as defined in Rule 502(g) of the Federal Rules of Evidence; provided, however, that "Privileges" shall not include the work-product privilege of any non-Employee attorney or attorneys that has not been previously shared with the Debtor or any of its employees and the work-product privilege shall remain with the non-Employee attorney or attorneys who created such work product so long as it has not been previously shared with the Debtor or any of its employees, or otherwise waived.

(oo) "PSZJ" means Pachulski Stang Ziehl & Jones LLP.

(pp) "Redeemer Committee" means the Redeemer Committee of the Highland Crusader Fund.

(qq) "Registrar" has the meaning given to it in Section 5.3(a) hereof.

(rr) "Reorganized Debtor Assets" means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, "Reorganized Debtor Assets" includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

(ss) "Securities Act" means the Securities Act of 1933, as amended.

(tt) "Subordinated Beneficiaries" means the Claimant Trust Beneficiaries who hold Subordinated Claim Trust Interests.

(uu) "Subordinated Claim Trust Interests" means the subordinated interests in the Claimant Trust to be distributed to Holders of Allowed Class 9 Subordinated Claims in accordance with the Plan.

(vv) "TIA" means the Trust Indenture Act of 1939, as amended.

(ww) "Trust Interests" means collectively the General Unsecured Claim Trust Interests, Subordinated Claim Trust Interests, and Equity Trust Interests.

(xx) "Trust Register" has the meaning given to it in Section 5.4(b) hereof.

(yy) "Trustees" means collectively the Claimant Trustee and Delaware Trustee, however, it is expressly understood and agreed that the Delaware Trustee shall have none of the duties or liabilities of the Claimant Trustee.

(zz) "UBS" means collectively UBS Securities LLC and UBS AG London Branch.

(aaa) "WilmerHale" Wilmer Cutler Pickering Hale & Dorr LLP.

1.2 General Construction. As used in this Agreement, the masculine, feminine and neuter genders, and the plural and singular numbers shall be deemed to include the others in all

cases where they would apply. "Includes" and "including" are not limiting and "or" is not exclusive. References to "Articles," "Sections" and other subdivisions, unless referring specifically to the Plan or provisions of the Bankruptcy Code, the Bankruptcy Rules, or other law, statute or regulation, refer to the corresponding Articles, Sections and other subdivisions of this Agreement, and the words "herein," "hereafter" and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, or subdivision of this Agreement. Amounts expressed in dollars or following the symbol "$" shall be deemed to be in United States dollars. References to agreements or instruments shall be deemed to refer to such agreements or instruments as the same may be amended, supplemented, or otherwise modified in accordance with the terms thereof.

1.3 Incorporation of the Plan. The Plan is hereby incorporated into this Agreement and made a part hereof by this reference.

ARTICLE II.
ESTABLISHMENT OF THE CLAIMANT TRUST

2.1 Creation of Name of Trust.

(a) The Claimant Trust is hereby created as a statutory trust under the Delaware Statutory Trust Act and shall be called the "Highland Claimant Trust." The Claimant Trustee shall be empowered to conduct all business and hold all property constituting the Claimant Trust Assets in such name in accordance with the terms and conditions set forth herein.

(b) The Trustees shall cause to be executed and filed in the office of the Secretary of State of the State of Delaware the Certificate of Trust and agree to execute, acting solely in their capacity as Trustees, such certificates as may from time to time be required under the Delaware Statutory Trust Act or any other Delaware law.

2.2 Objectives.

(a) The Claimant Trust is established for the purpose of satisfying Allowed General Unsecured Claims and Allowed Subordinated Claims (and only to the extent provided herein, Allowed Class A Limited Partnership Interests and Class B/C Limited Partnership Interests) under the Plan, by monetizing the Claimant Trust Assets transferred to it and making distributions to the Claimant Trust Beneficiaries. The Claimant Trust shall not continue or engage in any trade or business except to the extent reasonably necessary to monetize and distribute the Claimant Trust Assets consistent with this Agreement and the Plan and act as sole member and manager of New GP LLC. The Claimant Trust shall provide a mechanism for (i) the monetization of the Claimant Trust Assets and (ii) the distribution of the proceeds thereof, net of all claims, expenses, charges, liabilities, and obligations of the Claimant Trust, to the Claimant Trust Beneficiaries in accordance with the Plan. In furtherance of this distribution objective, the Claimant Trust will, from time to time, prosecute and resolve objections to certain Claims and Interests as provided herein and in the Plan.

(b) It is intended that the Claimant Trust be classified for federal income tax purposes as a "liquidating trust" within the meaning of section 301.7701-4(d) of the Treasury Regulations. In furtherance of this objective, the Claimant Trustee shall, in his business judgment,

make continuing best efforts to (i) dispose of or monetize the Claimant Trust Assets and resolve Claims, (ii) make timely distributions, and (iii) not unduly prolong the duration of the Claimant Trust, in each case in accordance with this Agreement.

2.3 Nature and Purposes of the Claimant Trust.

(a) The Claimant Trust is organized and established as a trust for the purpose of monetizing the Claimant Trust Assets and making distributions to Claimant Trust Beneficiaries in a manner consistent with "liquidating trust" status under Treasury Regulation Section 301.7701-4(d). The Claimant Trust shall retain all rights to commence and pursue all Causes of Action of the Debtor other than (i) Estate Claims, which shall be assigned to and commenced and pursued by the Litigation Trustee pursuant to the terms of the Litigation Sub-Trust Agreement, and (ii) Causes of Action constituting Reorganized Debtor Assets, if any, which shall be commenced and pursued by the Reorganized Debtor at the direction of the Claimant Trust as sole member of New GP LLC pursuant to the terms of the Reorganized Limited Partnership Agreement. The Claimant Trust and Claimant Trustee shall have and retain, and, as applicable, assign and transfer to the Litigation Sub-Trust and Litigation Trustee, any and all rights, defenses, cross-claims and counter-claims held by the Debtor with respect to any Claim as of the Petition Date. On and after the date hereof, in accordance with and subject to the Plan, the Claimant Trustee shall have the authority to (i) compromise, settle or otherwise resolve, or withdraw any objections to Claims against the Debtor, provided, however, the Claimant Trustee shall only have the authority to compromise or settle any Employee Claim with the unanimous consent of the Oversight Board and in the absence of unanimous consent, any such Employee Claim shall be transferred to the Litigation Sub-Trust and be litigated, comprised, settled, or otherwise resolved exclusively by the Litigation Trustee and (ii) compromise, settle, or otherwise resolve any Disputed Claims without approval of the Bankruptcy Court, which authority may be shared with or transferred to the Litigation Trustee in accordance with the terms of the Litigation Sub-Trust Agreement. For the avoidance of doubt, the Claimant Trust, pursuant to section 1123(b)(3)(B) of the Bankruptcy Code and applicable state trust law, is appointed as the successor-in-interest to, and representative of, the Debtor and its Estate for the retention, enforcement, settlement, and adjustment of all Claims other than Estate Claims, the Employee Claims, and those Claims constituting Reorganized Debtor Assets.

(b) The Claimant Trust shall be administered by the Claimant Trustee, in accordance with this Agreement, for the following purposes:

(i) to manage and monetize the Claimant Trust Assets in an expeditious but orderly manner with a view towards maximizing value within a reasonable time period;

(ii) to litigate and settle Claims in Class 8 and Class 9 (other than the Employee Claims, which shall be litigated and/or settled by the Litigation Trustee if the Oversight Board does not unanimously approve of any proposed settlement of such Employee Claim by the Claimant Trustee) and any of the Causes of Action included in the Claimant Trust Assets (including any cross-claims and counter-claims); provided, however, that Estate Claims transferred to the Litigation Sub-Trust shall be litigated and settled by the Litigation Trustee pursuant to the terms of the Litigation Sub-Trust Agreement;

(iii) to distribute net proceeds of the Claimant Trust Assets to the Claimant Trust Beneficiaries;

(iv) to distribute funds from the Disputed Claims Reserve to Holders of Trust Interests or to the Reorganized Debtor for distribution to Holders of Disputed Claims in each case in accordance with the Plan from time to time as any such Holder's Disputed Claim becomes an Allowed Claim under the Plan;

(v) to distribute funds to the Litigation Sub-Trust at the direction the Oversight Board;

(vi) to serve as the limited partner of, and to hold the limited partnership interests in, the Reorganized Debtor;

(vii) to serve as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner;

(viii) to oversee the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement, in its capacity as the sole member and manager of New GP LLC pursuant to the terms of the New GP LLC Documents, all with a view toward maximizing value in a reasonable time in a manner consistent with the Reorganized Debtor's fiduciary duties as investment adviser to the Managed Funds; and

(ix) to perform any other functions and take any other actions provided for or permitted by this Agreement and the Plan, and in any other agreement executed by the Claimant Trustee.

2.4 Transfer of Assets and Rights to the Claimant Trust; Litigation Sub-Trust.

(a) On the Effective Date, pursuant to the Plan, the Debtor shall irrevocably transfer, assign, and deliver, and shall be deemed to have transferred, assigned, and delivered, all Claimant Trust Assets and related Privileges held by the Debtor to the Claimant Trust free and clear of all Claims, Interests, Liens, and other encumbrances, and liabilities, except as provided in the Plan and this Agreement. To the extent certain assets comprising the Claimant Trust Assets, because of their nature or because such assets will accrue or become transferable subsequent to the Effective Date, and cannot be transferred to, vested in, and assumed by the Claimant Trust on such date, such assets shall be considered Reorganized Debtor Assets, which may be subsequently transferred to the Claimant Trust by the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement after such date.

(b) On or as soon as practicable after the Effective Date, the Claimant Trust shall irrevocably transfer, assign, and deliver, and shall be deemed to have transferred, assigned, and delivered, all Estate Claims and related Privileges held by the Claimant Trust to the Litigation Sub-Trust Trust free and clear of all Claims, Interests, Liens, and other encumbrances, and liabilities, except as provided in the Plan, this Agreement, and the Litigation Sub-Trust Agreement. Following the transfer of such Privileges, the Litigation Trustee shall have the power to waive the Privileges being so assigned and transferred.

(c) On or before the Effective Date, and continuing thereafter, the Debtor or Reorganized Debtor, as applicable, shall provide (i) for the Claimant Trustee's and Litigation Trustee's reasonable access to all records and information in the Debtor's and Reorganized Debtor's possession, custody or control, (ii) that all Privileges related to the Claimant Trust Assets shall transfer to and vest exclusively in the Claimant Trust (except for those Privileges that will be transferred and assigned to the Litigation Sub-Trust in respect of the Estate Claims), and (iii) subject to Section 3.12(c), the Debtor and Reorganized Debtor shall preserve all records and documents (including all electronic records or documents), including, but not limited to, the Debtor's file server, email server, email archiving system, master journal, SharePoint, Oracle E-Business Suite, Advent Geneva, Siepe database, Bloomberg chat data, and any backups of the foregoing, until such time as the Claimant Trustee, with the consent of the Oversight Board and, if pertaining to any of the Estate Claims, the Litigation Trustee, directs the Reorganized Debtor, as sole member of its general partner, that such records are no longer required to be preserved. For the purposes of transfer of documents, the Claimant Trust or Litigation Sub-Trust, as applicable, is an assignee and successor to the Debtor in respect of the Claimant Trust Assets and Estate Claims, respectively, and shall be treated as such in any review of confidentiality restrictions in requested documents.

(d) Until the Claimant Trust terminates pursuant to the terms hereof, legal title to the Claimant Trust Assets (other than Estate Claims) and all property contained therein shall be vested at all times in the Claimant Trust as a separate legal entity, except where applicable law in any jurisdiction requires title to any part of the Claimant Trust Assets to be vested in the Claimant Trustee, in which case title shall be deemed to be vested in the Claimant Trustee, solely in his capacity as Claimant Trustee. For purposes of such jurisdictions, the term Claimant Trust, as used herein, shall be read to mean the Claimant Trustee.

2.5 Principal Office. The principal office of the Claimant Trust shall be maintained by the Claimant Trustee at the following address: 100 Crescent Court, Suite 1850, Dallas, Texas 75201.

2.6 Acceptance. The Claimant Trustee accepts the Claimant Trust imposed by this Agreement and agrees to observe and perform that Claimant Trust, on and subject to the terms and conditions set forth herein and in the Plan.

2.7 Further Assurances. The Debtor, Reorganized Debtor, and any successors thereof will, upon reasonable request of the Claimant Trustee, execute, acknowledge and deliver such further instruments and do such further acts as may be necessary or proper to transfer to the Claimant Trustee any portion of the Claimant Trust Assets intended to be conveyed hereby and in the Plan in the form and manner provided for hereby and in the Plan and to vest in the Claimant Trustee the powers, instruments or funds in trust hereunder.

2.8 Incidents of Ownership. The Claimant Trust Beneficiaries shall be the sole beneficiaries of the Claimant Trust and the Claimant Trustee shall retain only such incidents of ownership as are necessary to undertake the actions and transactions authorized herein.

ARTICLE III.
THE TRUSTEES

3.1 Role. In furtherance of and consistent with the purpose of the Claimant Trust, the Plan, and this Agreement, the Claimant Trustee, subject to the terms and conditions contained herein, in the Plan, and in the Confirmation Order, shall serve as Claimant Trustee with respect to the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries and maintain, manage, and take action on behalf of the Claimant Trust.

3.2 Authority.

(a) In connection with the administration of the Claimant Trust, in addition to any and all of the powers enumerated elsewhere herein, the Claimant Trustee shall, in an expeditious but orderly manner, monetize the Claimant Trust Assets, make timely distributions and not unduly prolong the duration of the Claimant Trust. The Claimant Trustee shall have the power and authority and is authorized to perform any and all acts necessary and desirable to accomplish the purposes of this Agreement and the provisions of the Plan and the Confirmation Order relating to the Claimant Trust, within the bounds of this Agreement, the Plan, the Confirmation Order, and applicable law. The Claimant Trustee will monetize the Claimant Trust Assets with a view toward maximizing value in a reasonable time.

(b) The Claimant Trustee, subject to the limitations set forth in Section 3.3 of this Agreement shall have the right to prosecute, defend, compromise, adjust, arbitrate, abandon, estimate, or otherwise deal with and settle any and all Claims and Causes of Action that are part of the Claimant Trust Assets, other than the Estate Claims transferred to the Litigation Sub-Trust, as the Claimant Trustee determines is in the best interests of the Claimant Trust; provided, however, that if the Claimant Trustee proposes a settlement of an Employee Claim and does not obtain unanimous consent of the Oversight Board of such settlement, such Employee Claim shall be transferred to the Litigation Sub-Trust for the Litigation Trustee to litigate. To the extent that any action has been taken to prosecute, defend, compromise, adjust, arbitrate, abandon, or otherwise deal with and settle any such Claims and Causes of Action prior to the Effective Date, on the Effective Date the Claimant Trustee shall be substituted for the Debtor in connection therewith in accordance with Rule 25 of the Federal Rules of Civil Procedure, made applicable by Rule 7025 of the Federal Rules of Bankruptcy Procedure, and the caption with respect to such pending action shall be changed to the following "[Claimant Trustee], not individually but solely as Claimant Trustee for the Claimant Trust, et al. v. [Defendant]".

(c) Subject in all cases to any limitations contained herein, in the Confirmation Order, or in the Plan, the Claimant Trustee shall have the power and authority to:

(i) solely as required by Section 2.4(d), hold legal title to any and all rights of the Claimant Trust and Beneficiaries in or arising from the Claimant Trust Assets, including collecting and receiving any and all money and other property belonging to the Claimant Trust and the right to vote or exercise any other right with respect to any claim or interest relating to the Claimant Trust Assets in any case under the Bankruptcy Code and receive any distribution with respect thereto;

(ii) open accounts for the Claimant Trust and make distributions of Claimant Trust Assets in accordance herewith;

(iii) as set forth in Section 3.11, exercise and perform the rights, powers, and duties held by the Debtor with respect to the Claimant Trust Assets (other than Estate Claims), including the authority under section 1123(b)(3) of the Bankruptcy Code, and shall be deemed to be acting as a representative of the Debtor's Estate with respect to the Claimant Trust Assets, including with respect to the sale, transfer, or other disposition of the Claimant Trust Assets;

(iv) settle or resolve any Claims in Class 8 and Class 9 other than the Material Claims and any Equity Interests;

(v) sell or otherwise monetize any publicly-traded asset for which there is a marketplace and any other assets (other than the Other Assets (as defined below)) valued less than or equal to $3,000,000 (over a thirty-day period);

(vi) upon the direction of the Oversight Board, fund the Litigation Sub-Trust on the Effective Date and as necessary thereafter;

(vii) exercise and perform the rights, powers, and duties arising from the Claimant Trust's role as sole member of New GP LLC, and the role of New GP LLC, as general partner of the Reorganized Debtor, including the management of the Managed Funds;

(viii) protect and enforce the rights to the Claimant Trust Assets by any method deemed appropriate, including by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;

(ix) obtain reasonable insurance coverage with respect to any liabilities and obligations of the Trustees, Litigation Trustee, and the Members of the Oversight Board solely in their capacities as such, in the form of fiduciary liability insurance, a directors and officers policy, an errors and omissions policy, or otherwise. The cost of any such insurance shall be a Claimant Trust Expense and paid by the Claimant Trustee from the Claimant Trust Assets;

(x) without further order of the Bankruptcy Court, but subject to the terms of this Agreement, employ various consultants, third-party service providers, and other professionals, including counsel, tax advisors, consultants, brokers, investment bankers, valuation counselors, and financial advisors, as the Claimant Trustee deems necessary to aid him in fulfilling his obligations under this Agreement; such consultants, third-party service providers, and other professionals shall be retained pursuant to whatever fee arrangement the Claimant Trustee deems appropriate, including contingency fee arrangements and any fees and expenses incurred by such professionals engaged by the Claimant Trustee shall be Claimant Trust Expenses and paid by the Claimant Trustee from the Claimant Trust Assets;

(xi) retain and approve compensation arrangements of an independent public accounting firm to perform such reviews and/or audits of the financial books and records of the Claimant Trust as may be required by this Agreement, the Plan, the Confirmation Order, and applicable laws and as may be reasonably and appropriate in Claimant Trustee's discretion. Subject to the foregoing, the Claimant Trustee may commit the Claimant Trust to, and shall pay,

such independent public accounting firm reasonable compensation for services rendered and reasonable and documented out-of-pocket expenses incurred, and all such compensation and reimbursement shall be paid by the Claimant Trustee from Claimant Trust Assets;

(xii) prepare and file (A) tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a), (B) an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claim Reserve as a separate taxable entity, or (C) any periodic or current reports that may be required under applicable law;

(xiii) prepare and send annually to the Beneficiaries, in accordance with the tax laws, a separate statement stating a Beneficiary's interest in the Claimant Trust and its share of the Claimant Trust's income, gain, loss, deduction or credit, and to instruct all such Beneficiaries to report such items on their federal tax returns;

(xiv) to the extent applicable, assert, enforce, release, or waive any attorney-client communication, attorney work product or other Privilege or defense on behalf of the Claimant Trust (including as to any Privilege that the Debtor held prior to the Effective Date), including to provide any information to insurance carriers that the Claimant Trustee deems necessary to utilize applicable insurance coverage for any Claim or Claims;

(xv) subject to Section 3.4, invest the proceeds of the Claimant Trust Assets and all income earned by the Claimant Trust, pending any distributions in short-term certificates of deposit, in banks or other savings institutions, or other temporary, liquid investments, such as Treasury bills;

(xvi) request any appropriate tax determination with respect to the Claimant Trust, including a determination pursuant to section 505 of the Bankruptcy Code;

(xvii) take or refrain from taking any and all actions the Claimant Trustee reasonably deems necessary for the continuation, protection, and maximization of the value of the Claimant Trust Assets consistent with purposes hereof;

(xviii) take all steps and execute all instruments and documents necessary to effectuate the purpose of the Claimant Trust and the activities contemplated herein and in the Confirmation Order and the Plan, and take all actions necessary to comply with the Confirmation Order, the Plan, and this Agreement and the obligations thereunder and hereunder;

(xix) exercise such other powers and authority as may be vested in or assumed by the Claimant Trustee by any Final Order;

(xx) evaluate and determine strategy with respect to the Claimant Trust Assets, and hold, pursue, prosecute, adjust, arbitrate, compromise, release, settle or abandon the Claimant Trust Assets on behalf of the Claimant Trust; and

(xxi) with respect to the Claimant Trust Beneficiaries, perform all duties and functions of the Distribution Agent as set forth in the Plan, including distributing Cash from

the Disputed Claims Reserve, solely on account of Disputed Class 1 through Class 7 Claims that were Disputed as of the Effective Date, but become Allowed, to the Reorganization Debtor such that the Reorganized Debtor can satisfy its duties and functions as Distribution Agent with respect to Claims in Class 1 through Class 7 (the foregoing subparagraphs (i)-(xxi) being collectively, the "Authorized Acts").

(d) The Claimant Trustee and the Oversight Committee will enter into an agreement as soon as practicable after the Effective Date concerning the Claimant Trustee's authority with respect to certain other assets, including certain portfolio company assets (the "Other Assets").

(e) The Claimant Trustee has the power and authority to act as trustee of the Claimant Trust and perform the Authorized Acts through the date such Claimant Trustee resigns, is removed, or is otherwise unable to serve for any reason.

3.3 Limitation of Authority.

(a) Notwithstanding anything herein to the contrary, the Claimant Trust and the Claimant Trustee shall not (i) be authorized to engage in any trade or business, (ii) take any actions inconsistent with the management of the Claimant Trust Assets as are required or contemplated by applicable law, the Confirmation Order, the Plan, and this Agreement, (iii) take any action in contravention of the Confirmation Order, the Plan, or this Agreement, or (iv) cause New GP LLC to cause the Reorganized Debtor to take any action in contravention of the Plan, Plan Documents or the Confirmation Order.

(b) Notwithstanding anything herein to the contrary, and in no way limiting the terms of the Plan, the Claimant Trustee must receive the consent by vote of a simple majority of the Oversight Board pursuant to the notice and quorum requirements set forth in Section 4.5 herein, in order to:

(i) terminate or extend the term of the Claimant Trust;

(ii) prosecute, litigate, settle or otherwise resolve any of the Material Claims;

(iii) except otherwise set forth herein, sell or otherwise monetize any assets that are not Other Assets, including Reorganized Debtor Assets (other than with respect to the Managed Funds), that are valued greater than $3,000,000 (over a thirty-day period);

(iv) except for cash distributions made in accordance with the terms of this Agreement, make any cash distributions to Claimant Trust Beneficiaries in accordance with Article IV of the Plan;

(v) except for any distributions made in accordance with the terms of this Agreement, make any distributions from the Disputed Claims Reserve to Holders of Disputed Claims after such time that such Holder's Claim becomes an Allowed Claim under the Plan;

(vi) reserve or retain any cash or cash equivalents in an amount reasonably necessary to meet claims and contingent liabilities (including Disputed Claims and any indemnification obligations that may arise under Section 8.2 of this Agreement), to maintain the value of the Claimant Trust Assets, or to fund ongoing operations and administration of the Litigation Sub-Trust;

(vii) borrow as may be necessary to fund activities of the Claimant Trust;

(viii) determine whether the conditions under Section 5.1(c) of this Agreement have been satisfied such that a certification should be filed with the Bankruptcy Court;

(ix) invest the Claimant Trust Assets, proceeds thereof, or any income earned by the Claimant Trust (for the avoidance of doubt, this shall not apply to investment decisions made by the Reorganized Debtor or its subsidiaries solely with respect to Managed Funds);

(x) change the compensation of the Claimant Trustee;

(xi) subject to ARTICLE X, make structural changes to the Claimant Trust or take other actions to minimize any tax on the Claimant Trust Assets; and

(xii) retain counsel, experts, advisors, or any other professionals; provided, however, the Claimant Trustee shall not be required to obtain the consent of the Oversight Board for the retention of (i) PSZJ, WilmerHale, or Development Specialists, Inc. and (ii) any other professional whose expected fees and expenses are estimated at less than or equal to $200,000.

(c) [Reserved.]

3.4 Investment of Cash. The right and power of the Claimant Trustee to invest the Claimant Trust Assets, the proceeds thereof, or any income earned by the Claimant Trust, with majority approval of the Oversight Board, shall be limited to the right and power to invest in such Claimant Trust Assets only in Cash and U.S. Government securities as defined in section 29(a)(16) of the Investment Company Act; provided, however that (a) the scope of any such permissible investments shall be further limited to include only those investments that a "liquidating trust" within the meaning of Treasury Regulation Section 301.7701-4(d), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the Internal Revenue Service ("IRS") guidelines, whether set forth in IRS rulings, other IRS pronouncements, or otherwise, (b) the Claimant Trustee may retain any Claimant Trust Assets received that are not Cash only for so long as may be required for the prompt and orderly monetization or other disposition of such assets, and (c) the Claimant Trustee may expend the assets of the Claimant Trust (i) as reasonably necessary to meet contingent liabilities (including indemnification and similar obligations) and maintain the value of the assets of the Claimant Trust during the pendency of this Claimant Trust, (ii) to pay Claimant Trust Expenses (including, but not limited to, any taxes imposed on the Claimant Trust and reasonable attorneys' fees and expenses in connection with litigation), and (iii) to satisfy other liabilities incurred or assumed by the Claimant Trust (or to which the assets are otherwise subject) in accordance with the Plan or this Agreement).

3.5 Binding Nature of Actions. All actions taken and determinations made by the Claimant Trustee in accordance with the provisions of this Agreement shall be final and binding upon any and all Beneficiaries.

3.6 Term of Service. The Claimant Trustee shall serve as the Claimant Trustee for the duration of the Claimant Trust, subject to death, resignation or removal.

3.7 Resignation. The Claimant Trustee may resign as Claimant Trustee of the Claimant Trust by an instrument in writing delivered to the Bankruptcy Court and Oversight Board at least thirty (30) days before the proposed effective date of resignation. The Claimant Trustee shall continue to serve as Claimant Trustee after delivery of the Claimant Trustee's resignation until the proposed effective date of such resignation, unless the Claimant Trustee and a simple majority of the Oversight Board consent to an earlier effective date, which earlier effective date shall be no earlier than the date of appointment of a successor Claimant Trustee in accordance with Section 3.9 hereof becomes effective.

3.8 Removal.

(a) The Claimant Trustee may be removed by a simple majority vote of the Oversight Board for Cause for Cause immediately upon notice thereof, or without Cause upon 60 days' prior written notice. Upon the removal of the Claimant Trustee pursuant hereto, the Claimant Trustee will resign, or be deemed to have resigned, from any role or position he or she may have at New GP LLC or the Reorganized Debtor effective upon the expiration of the foregoing 60 day period unless the Claimant Trustee and a simple majority of the Oversight Board agree otherwise.

(b) To the extent there is any dispute regarding the removal of a Claimant Trustee (including any dispute relating to any compensation or expense reimbursement due under this Agreement) the Bankruptcy Court shall retain jurisdiction to consider and adjudicate such dispute. Notwithstanding the foregoing, the Claimant Trustee will continue to serve as the Claimant Trustee after his removal until the earlier of (i) the time when a successor Claimant Trustee will become effective in accordance with Section 3.9 of this Agreement or (ii) such date as the Bankruptcy Court otherwise orders.

3.9 Appointment of Successor.

(a) Appointment of Successor. In the event of a vacancy by reason of the death or Disability (in the case of a Claimant Trustee that is a natural person), dissolution (in the case of a Claimant Trustee that is not a natural person), or removal of the Claimant Trustee, or prospective vacancy by reason of resignation, a successor Claimant Trustee shall be selected by a simple majority vote of the Oversight Board. If Members of the Oversight Board are unable to secure a majority vote, the Bankruptcy Court will determine the successor Claimant Trustee on motion of the Members. If a final decree has been entered closing the Chapter 11 Case, the Claimant Trustee may seek to reopen the Chapter 11 Case for the limited purpose of determining the successor Claimant Trustee, and the costs for such motion and costs related to re-opening the Chapter 11 Case shall be paid by the Claimant Trust. The successor Claimant Trustee shall be appointed as soon as practicable, but in any event no later than sixty (60) days after the occurrence of the

vacancy or, in the case of resignation, on the effective date of the resignation of the then acting Claimant Trustee.

(b) Vesting or Rights in Successor Claimant Trustee. Every successor Claimant Trustee appointed hereunder shall execute, acknowledge, and deliver to the Claimant Trust, the exiting Claimant Trustee, the Oversight Board, and file with the Bankruptcy Court, an instrument accepting such appointment subject to the terms and provisions hereof. The successor Claimant Trustee, without any further act, deed, or conveyance shall become vested with all the rights, powers, trusts and duties of the exiting Claimant Trustee, except that the successor Claimant Trustee shall not be liable for the acts or omissions of the retiring Claimant Trustee. In no event shall the retiring Claimant Trustee be liable for the acts or omissions of the successor Claimant Trustee.

(c) Interim Claimant Trustee. During any period in which there is a vacancy in the position of Claimant Trustee, the Oversight Board shall appoint one of its Members to serve as the interim Claimant Trustee (the "Interim Trustee") until a successor Claimant Trustee is appointed pursuant to Section 3.9(a). The Interim Trustee shall be subject to all the terms and conditions applicable to a Claimant Trustee hereunder. Such Interim Trustee shall not be limited in any manner from exercising any rights or powers as a Member of the Oversight Board merely by such Person's appointment as Interim Trustee.

3.10 Continuance of Claimant Trust. The death, resignation, or removal of the Claimant Trustee shall not operate to terminate the Claimant Trust created by this Agreement or to revoke any existing agency (other than any agency of the Claimant Trustee as the Claimant Trustee) created pursuant to the terms of this Agreement or invalidate any action taken by the Claimant Trustee. In the event of the resignation or removal of the Claimant Trustee, the Claimant Trustee shall promptly (i) execute and deliver, by the effective date of resignation or removal, such documents, instruments, records, and other writings as may be reasonably requested by his successor to effect termination of the exiting Claimant Trustee's capacity under this Agreement and the conveyance of the Claimant Trust Assets then held by the exiting Claimant Trustee to the successor Claimant Trustee; (ii) deliver to the successor Claimant Trustee all non-privileged documents, instruments, records, and other writings relating to the Claimant Trust as may be in the possession or under the control of the exiting Claimant Trustee, provided, the exiting Claimant Trustee shall have the right to make and retain copies of such documents, instruments, records and other writings delivered to the successor Claimant Trustee and the cost of making such copies shall be a Claimant Trust Expense to be paid by the Claimant Trust; and (iii) otherwise assist and cooperate in effecting the assumption of the exiting Claimant Trustee's obligations and functions by his successor, provided the fees and expenses of such assistance and cooperation shall be paid to the exiting Claimant Trustee by the Claimant Trust. The exiting Claimant Trustee shall irrevocably appoint the successor Claimant Trustee as his attorney-in-fact and agent with full power of substitution for it and its name, place and stead to do any and all acts that such exiting Claimant Trustee is obligated to perform under this Section 3.10.

3.11 Claimant Trustee as "Estate Representative". The Claimant Trustee will be the exclusive trustee of the Claimant Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code (the "Estate Representative") with respect to the Claimant

Trust Assets, with all rights and powers attendant thereto, in addition to all rights and powers granted in the Plan and in this Agreement; provided that all rights and powers as representative of the Estate pursuant to section 1123(b)(3)(B) shall be transferred to the Litigation Trustee in respect of the Estate Claims and the Employee Claims. The Claimant Trustee will be the successor-in-interest to the Debtor with respect to any action pertaining to the Claimant Trust Assets, which was or could have been commenced by the Debtor prior to the Effective Date, except as otherwise provided in the Plan or Confirmation Order. All actions, claims, rights or interest constituting Claimant Trust Assets are preserved and retained and may be enforced, or assignable to the Litigation Sub-Trust, by the Claimant Trustee as an Estate Representative.

3.12 Books and Records.

(a) The Claimant Trustee shall maintain in respect of the Claimant Trust and the Claimant Trust Beneficiaries books and records reflecting Claimant Trust Assets in its possession and the income of the Claimant Trust and payment of expenses, liabilities, and claims against or assumed by the Claimant Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof. Such books and records shall be maintained as reasonably necessary to facilitate compliance with the tax reporting requirements of the Claimant Trust and the requirements of Article VII herein. Except as otherwise provided herein, nothing in this Agreement requires the Claimant Trustee to file any accounting or seek approval of any court with respect to the administration of the Claimant Trust, or as a condition for managing any payment or distribution out of the Claimant Trust Assets.

(b) The Claimant Trustee shall provide quarterly reporting to the Oversight Board and Claimant Trust Beneficiaries of (i) the status of the Claimant Trust Assets, (ii) the balance of Cash held by the Claimant Trust (including in each of the Claimant Trust Expense Reserve and Disputed Claim Reserve), (iii) the determination and any re-determination, as applicable, of the total amount allocated to the Disputed Claim Reserve, (iv) the status of Disputed Claims and any resolutions thereof, (v) the status of any litigation, including the pursuit of the Causes of Action, (vi) the Reorganized Debtor's performance, and (vii) operating expenses; provided, however, that the Claimant Trustee may, with respect to any Member of the Oversight Board or Claimant Trust Beneficiary, redact any portion of such reports that relate to such Entity's Claim or Equity Interest, as applicable and any reporting provided to Claimant Trust Beneficiaries may be subject to such Claimant Trust Beneficiary's agreement to maintain confidentiality with respect to any non-public information.

(c) The Claimant Trustee may dispose some or all of the books and records maintained by the Claimant Trustee at the later of (i) such time as the Claimant Trustee determines, with the unanimous consent of the Oversight Board, that the continued possession or maintenance of such books and records is no longer necessary for the benefit of the Claimant Trust, or (ii) upon the termination and winding up of the Claimant Trust under Article IX of this Agreement; provided, however, the Claimant Trustee shall not dispose of any books and records related to the Estate Claims or Employee Claims without the consent of the Litigation Trustee. Notwithstanding the foregoing, the Claimant Trustee shall cause the Reorganized Debtor and its subsidiaries to retain such books and records, and for such periods, as are required to be retained pursuant to Section 204-2 of the Investment Advisers Act or any other applicable laws, rules, or regulations.

3.13 Compensation and Reimbursement; Engagement of Professionals.

(a) Compensation and Expenses.

(i) Compensation. As compensation for any services rendered by the Claimant Trustee in connection with this Agreement, the Claimant Trustee shall receive compensation of $150,000 per month (the "Base Salary"). Within the first forty-five days following the Confirmation Date, the Claimant Trustee, on the one hand, and the Committee, if prior to the Effective Date, or the Oversight Board, if on or after the Effective Date, on the other, will negotiate go-forward compensation for the Claimant Trustee which will include (a) the Base Salary, (b) a success fee, and (c) severance.

(ii) Expense Reimbursements. All reasonable out-of-pocket expenses of the Claimant Trustee in the performance of his or her duties hereunder, shall be reimbursed as Claimant Trust Expenses paid by the Claimant Trust.

(b) Professionals.

(i) Engagement of Professionals. The Claimant Trustee shall engage professionals from time to time in conjunction with the services provided hereunder. The Claimant Trustee's engagement of such professionals shall be approved by a majority of the Oversight Board as set forth in Section 3.3(b) hereof.

(ii) Fees and Expenses of Professionals. The Claimant Trustee shall pay the reasonable fees and expenses of any retained professionals as Claimant Trust Expenses.

3.14 Reliance by Claimant Trustee. Except as otherwise provided herein, the Claimant Trustee may rely, and shall be fully protected in acting or refraining from acting, on any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document that the Claimant Trustee has no reason to believe to be other than genuine and to have been signed or presented by the proper party or parties or, in the case of facsimiles, to have been sent by the proper party or parties, and the Claimant Trustee may conclusively rely as to the truth of the statements and correctness of the opinions or direction expressed therein. The Claimant Trustee may consult with counsel and other professionals, and any advice of such counsel or other professionals shall constitute full and complete authorization and protection in respect of any action taken or not taken by the Claimant Trustee in accordance therewith. The Claimant Trustee shall have the right at any time to seek instructions from the Bankruptcy Court, or any other court of competent jurisdiction concerning the Claimant Trust Assets, this Agreement, the Plan, or any other document executed in connection therewith, and any such instructions given shall be full and complete authorization in respect of any action taken or not taken by the Claimant Trustee in accordance therewith. The Claimant Trust shall have the right to seek Orders from the Bankruptcy Court as set forth in Article IX of the Plan.

3.15 Commingling of Claimant Trust Assets. The Claimant Trustee shall not commingle any of the Claimant Trust Assets with his or her own property or the property of any other Person.

3.16 Delaware Trustee.

(a) The Delaware Trustee shall have the limited power and authority, and is hereby authorized and empowered, to (i) accept legal process served on the Claimant Trust in the State of Delaware; and (ii) execute any certificates that are required to be executed under the Delaware Statutory Trust Act and file such certificates in the office of the Secretary of State of the State of Delaware, and take such action or refrain from taking such action under this Agreement, in either case as may be directed in a writing delivered to the Delaware Trustee by the Claimant Trustee and upon which the Delaware Trustee shall be entitled to conclusively and exclusively rely; provided, however, that the Delaware Trustee shall not be required to take or to refrain from taking any such action if the Delaware Trustee shall believe, or shall have been advised by counsel, that such performance is likely to involve the Delaware Trustee in personal liability or to result in personal liability to the Delaware Trustee, or is contrary to the terms of this Agreement or of any document contemplated hereby to which the Claimant Trust or the Delaware Trustee is or becomes a party or is otherwise contrary to law. The Parties agree not to instruct the Delaware Trustee to take any action or to refrain from taking any action that is contrary to the terms of this Agreement or of any document contemplated hereby to which the Claimant Trust or the Delaware Trustee is or becomes party or that is otherwise contrary to law. Other than as expressly provided for in this Agreement, the Delaware Trustee shall have no duty or power to take any action for or on behalf of the Claimant Trust. For the avoidance of doubt, the Delaware Trustee will only have such rights and obligations as expressly provided by reference to the Delaware Trustee hereunder. The Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities, of the Claimant Trustee set forth herein. The Delaware Trustee shall be one of the trustees of the Claimant Trust for the sole and limited purpose of fulfilling the requirements of Section 3807 of the Delaware Statutory Trust Act and for taking such actions as are required to be taken by a Delaware Trustee under the Delaware Statutory Trust Act. The duties (including fiduciary duties), liabilities and obligations of the Delaware Trustee shall be limited to those expressly set forth in this Section 3.16 and there shall be no other duties (including fiduciary duties) or obligations, express or implied, at law or in equity, of the Delaware Trustee. To the extent that, at law or in equity, the Delaware Trustee has duties (including fiduciary duties) and liabilities relating thereto to the Claimant Trust, the other parties hereto or any beneficiary of the Claimant Trust, it is hereby understood and agreed by the other parties hereto that such duties and liabilities are replaced by the duties and liabilities of the Delaware Trustee expressly set forth in this Agreement.

(b) The Delaware Trustee shall serve until such time as the Claimant Trustee removes the Delaware Trustee or the Delaware Trustee resigns and a successor Delaware Trustee is appointed by the Claimant Trustee in accordance with the terms hereof. The Delaware Trustee may resign at any time upon the giving of at least thirty (30) days' advance written notice to the Claimant Trustee; provided, that such resignation shall not become effective unless and until a successor Delaware Trustee shall have been appointed by the Claimant Trustee in accordance with the terms hereof. If the Claimant Trustee does not act within such thirty (30) day period, the Delaware Trustee may apply to the Court of Chancery of the State of Delaware for the appointment of a successor Delaware Trustee.

(c) Upon the resignation or removal of the Delaware Trustee, the Claimant Trustee shall appoint a successor Delaware Trustee by delivering a written instrument to the

outgoing Delaware Trustee. Any successor Delaware Trustee must satisfy the requirements of Section 3807 of the Delaware Statutory Trust Act. Any resignation or removal of the Delaware Trustee and appointment of a successor Delaware Trustee shall not become effective until a written acceptance of appointment is delivered by the successor Delaware Trustee to the outgoing Delaware Trustee and the Claimant Trustee and any undisputed fees, expenses and indemnity due to the outgoing Delaware Trustee are paid. Following compliance with the preceding sentence, the successor Delaware Trustee shall become fully vested with all of the rights, powers, duties and obligations of the outgoing Delaware Trustee under this Agreement, with like effect as if originally named as Delaware Trustee, and the outgoing Delaware Trustee shall be discharged of its duties and obligations under this Agreement.

(d) The Delaware Trustee shall be paid such compensation as agreed to pursuant to a separate fee agreement. The Claimant Trust shall promptly advance and reimburse the Delaware Trustee for all reasonable out-of-pocket costs and expenses (including reasonable legal fees and expenses) incurred by the Delaware Trustee in connection with the performance of its duties hereunder.

(e) WTNA shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

(f) Any corporation or association into which WTNA may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Delaware Trustee is a party, will be and become the successor Delaware Trustee under this Agreement and will have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

ARTICLE IV.
THE OVERSIGHT BOARD

4.1 Oversight Board Members. The Oversight Board will be comprised of five (5) Members appointed to serve as the board of managers of the Claimant Trust, at least two (2) of which shall be disinterested Members selected by the Creditors' Committee (such disinterested members, the "Disinterested Members"). The initial Members of the Oversight Board will be representatives of Acis, the Redeemer Committee, Meta-e Discovery, UBS, and David Pauker. David Pauker and Paul McVoy, the representative of Meta-e Discovery, shall serve as the initial Disinterested Board Members; provided, however, that if the Plan is confirmed with the Convenience Class or any other convenience class supported by the Creditors' Committee, Meta-

E Discovery and its representative will resign on the Effective Date or as soon as practicable thereafter and be replaced in accordance with Section 4.10 hereof..

4.2 Authority and Responsibilities.

(a) The Oversight Board shall, as and when requested by either of the Claimant Trustee and Litigation Trustee, or when the Members otherwise deem it to be appropriate or as is otherwise required under the Plan, the Confirmation Order, or this Agreement, consult with and advise the Claimant Trustee and Litigation Trustee as to the administration and management of the Claimant Trust and the Litigation Sub-Trust, as applicable, in accordance with the Plan, the Confirmation Order, this Agreement, and Litigation Sub-Trust Agreement (as applicable) and shall have the other responsibilities and powers as set forth herein. As set forth in the Plan, the Confirmation Order, and herein, the Oversight Board shall have the authority and responsibility to oversee, review, and govern the activities of the Claimant Trust, including the Litigation Sub-Trust, and the performance of the Claimant Trustee and Litigation Trustee, and shall have the authority to remove the Claimant Trustee in accordance with Section 3.8 hereof or the Litigation Trustee in accordance with the terms of the Litigation Sub-Trust Agreement; provided, however, that the Oversight Board may not direct either Claimant Trustee and Litigation Trustee to act inconsistently with their respective duties under this Agreement (including without limitation as set in Section 4.2(e) below), the Litigation Sub-Trust Agreement, the Plan, the Confirmation Order, or applicable law.

(b) The Oversight Board shall also (i) monitor and oversee the administration of the Claimant Trust and the Claimant Trustee's performance of his or her responsibilities under this Agreement, (ii) as more fully set forth in the Litigation Sub-Trust Agreement, approve funding to the Litigation Sub-Trust, monitor and oversee the administration of the Litigation Sub-Trust and the Litigation Trustee's performance of his responsibilities under the Litigation Sub-Trust Agreement, and (iii) perform such other tasks as are set forth herein, in the Litigation Sub-Trust Agreement, and in the Plan.

(c) The Claimant Trustee shall consult with and provide information to the Oversight Board in accordance with and pursuant to the terms of the Plan, the Confirmation Order, and this Agreement to enable the Oversight Board to meet its obligations hereunder.

(d) Notwithstanding any provision of this Agreement to the contrary, the Claimant Trustee shall not be required to (i) obtain the approval of any action by the Oversight Board to the extent that the Claimant Trustee, in good faith, reasonably determines, based on the advice of legal counsel, that such action is required to be taken by applicable law, the Plan, the Confirmation Order, or this Agreement or (ii) follow the directions of the Oversight Board to take any action the extent that the Claimant Trustee, in good faith, reasonably determines, based on the advice of legal counsel, that such action is prohibited by applicable law the Plan, the Confirmation Order, or this Agreement.

(e) Notwithstanding provision of this Agreement to the contrary, with respect to the activities of the Reorganized Debtor in its capacity as an investment adviser (and subsidiaries of the Reorganized Debtor that serve as general partner or in an equivalent capacity) to any Managed Funds, the Oversight Board shall not make investment decisions or otherwise participate

in the investment decision making process relating to any such Managed Funds, nor shall the Oversight Board or any member thereof serve as a fiduciary to any such Managed Funds. It is agreed and understood that investment decisions made by the Reorganized Debtor (or its subsidiary entities) with respect to Managed Funds shall be made by the Claimant Trustee in his capacity as an officer of the Reorganized Debtor and New GP LLC and/or such persons who serve as investment personnel of the Reorganized Debtor from time to time, and shall be subject to the fiduciary duties applicable to such entities and persons as investment adviser to such Managed Funds.

4.3 Fiduciary Duties. The Oversight Board (and each Member in its capacity as such) shall have fiduciary duties to the Claimant Trust Beneficiaries consistent with the fiduciary duties that the members of the Creditors' Committee have to unsecured creditors and shall exercise its responsibilities accordingly; provided, however, that the Oversight Board shall not owe fiduciary obligations to any Holders of Class A Limited Partnership Interests or Class B/C Limited Partnership Interests until such Holders become Claimant Trust Beneficiaries in accordance with Section 5.1(c) hereof; provided, further, that the Oversight Board shall not owe fiduciary obligations to a Holder of an Equity Trust Interest if such Holder is named as a defendant in any of the Causes of Action, including Estate Claims, in their capacities as such, it being the intent that the Oversight Board's fiduciary duties are to maximize the value of the Claimant Trust Assets, including the Causes of Action. In all circumstances, the Oversight Board shall act in the best interests of the Claimant Trust Beneficiaries and in furtherance of the purpose of the Claimant Trust. Notwithstanding anything to the contrary contained in this Agreement, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing.

4.4 Meetings of the Oversight Board. Meetings of the Oversight Board are to be held as necessary to ensure the operation of the Claimant Trust but in no event less often than quarterly. Special meetings of the Oversight Board may be held whenever and wherever called for by the Claimant Trustee or any Member; provided, however, that notice of any such meeting shall be duly given in writing no less than 48 hours prior to such meeting (such notice requirement being subject to any waiver by the Members in the minutes, if any, or other transcript, if any, of proceedings of the Oversight Board). Unless the Oversight Board decides otherwise (which decision shall rest in the reasonable discretion of the Oversight Board), the Claimant Trustee, and each of the Claimant Trustee's designated advisors may, but are not required to, attend meetings of the Oversight Board.

4.5 Unanimous Written Consent. Any action required or permitted to be taken by the Oversight Board in a meeting may be taken without a meeting if the action is taken by unanimous written consents describing the actions taken, signed by all Members and recorded. If any Member informs the Claimant Trustee (via e-mail or otherwise) that he or she objects to the decision, determination, action, or inaction proposed to be made by unanimous written consent, the Claimant Trustee must use reasonable good faith efforts to schedule a meeting on the issue to be set within 48 hours of the request or as soon thereafter as possible on which all members of the Oversight Board are available in person or by telephone. Such decision, determination, action, or inaction must then be made pursuant to the meeting protocols set forth herein.

4.6 Manner of Acting.

(a) A quorum for the transaction of business at any meeting of the Oversight Board shall consist of at least three Members (including no less than one (1) Disinterested Member); provided that if the transaction of business at a meeting would constitute a direct or indirect conflict of interest for the Redeemer Committee, Acis, and/or UBS, at least two Disinterested Members must be present for there to be a quorum. Except as set otherwise forth herein, the majority vote of the Members present at a duly called meeting at which a quorum is present throughout shall be the act of the Oversight Board except as otherwise required by law or as provided in this Agreement. Any or all of the Members may participate in a regular or special meeting by, or conduct the meeting through the use of, conference telephone, video conference, or similar communications equipment by means of which all Persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition of the place) for the holding hereof. Any Member participating in a meeting by this means is deemed to be present in person at the meeting. Voting (including on negative notice) may be conducted by electronic mail or individual communications by the applicable Trustee and each Member.

(b) Any Member who is present and entitled to vote at a meeting of the Oversight Board when action is taken is deemed to have assented to the action taken, subject to the requisite vote of the Oversight Board, unless (i) such Member objects at the beginning of the meeting (or promptly upon his/her arrival) to holding or transacting business at the meeting; (ii) his/her dissent or abstention from the action taken is entered in the minutes of the meeting; or (iii) he/she delivers written notice (including by electronic or facsimile transmission) of his/her dissent or abstention to the Oversight Board before its adjournment. The right of dissent or abstention is not available to any Member of the Oversight Board who votes in favor of the action taken.

(c) Prior to a vote on any matter or issue or the taking of any action with respect to any matter or issue, each Member shall report to the Oversight Board any conflict of interest such Member has or may have with respect to the matter or issue at hand and fully disclose the nature of such conflict or potential conflict (including, without limitation, disclosing any and all financial or other pecuniary interests that such Member may have with respect to or in connection with such matter or issue, other than solely as a holder of Trust Interests). A Member who, with respect to a matter or issue, has or who may have a conflict of interest whereby such Member's interests are adverse to the interests of the Claimant Trust shall be deemed a "Conflicted Member" who shall not be entitled to vote or take part in any action with respect to such matter or issue. In the event of a Conflicted Member, the vote or action with respect to such matter or issue giving rise to such conflict shall be undertaken only by Members who are not Conflicted Members and, notwithstanding anything contained herein to the contrary, the affirmative vote of only a majority of the Members who are not Conflicted Members shall be required to approve of such matter or issue and the same shall be the act of the Oversight Board.

(d) Each of Acis, the Redeemer Committee, and UBS shall be deemed "Conflicted Members" with respect to any matter or issue related to or otherwise affecting any of their respective Claim(s) (a "Committee Member Claim Matter"). A unanimous vote of the Disinterested Members shall be required to approve of or otherwise take action with respect to any

Committee Member Claim Matter and, notwithstanding anything herein to the contrary, the same shall be the act of the Oversight Board.

4.7 Tenure of the Members of the Oversight Board. The authority of the Members of the Oversight Board will be effective as of the Effective Date and will remain and continue in full force and effect until the Claimant Trust is terminated in accordance with Article IX hereof. The Members of the Oversight Board will serve until such Member's successor is duly appointed or until such Member's earlier death or resignation pursuant to Section 4.8 below, or removal pursuant to Section 4.9 below.

4.8 Resignation. A Member of the Oversight Board may resign by giving prior written notice thereof to the Claimant Trustee and other Members. Such resignation shall become effective on the earlier to occur of (i) the day that is 90 days following the delivery of such notice, (ii) the appointment of a successor in accordance with Section 4.10 below, and (iii) such other date as may be agreed to by the Claimant Trustee and the non-resigning Members of the Oversight Board.

4.9 Removal. A majority of the Oversight Board may remove any Member for Cause or Disability. If any Committee Member has its Claim disallowed in its entirety the representative of such entity will immediately be removed as a Member without the requirement for a vote and a successor will be appointed in the manner set forth herein. Notwithstanding the foregoing, upon the termination of the Claimant Trust, any or all of the Members shall be deemed to have resigned.

4.10 Appointment of a Successor Member.

(a) In the event of a vacancy on the Oversight Board (whether by removal, death, or resignation), a new Member may be appointed to fill such position by the remaining Members acting unanimously; provided, however, that any vacancy resulting from the removal, resignation, or death of a Disinterested Member may only be filled by a disinterested Person unaffiliated with any Claimant or constituency in the Chapter 11 Case; provided, further, that if an individual serving as the representative of a Committee Member resigns from its role as representative, such resignation shall not be deemed resignation of the Committee Member itself and such Committee Member shall have the exclusive right to designate its replacement representative for the Oversight Board. The appointment of a successor Member will be further evidenced by the Claimant Trustee's filing with the Bankruptcy Court (to the extent a final decree has not been entered) and posting on the Claimant Trustee's website a notice of appointment, at the direction of the Oversight Board, which notice will include the name, address, and telephone number of the successor Member.

(b) Immediately upon the appointment of any successor Member, the successor Member shall assume all rights, powers, duties, authority, and privileges of a Member hereunder and such rights and privileges will be vested in and undertaken by the successor Member without any further act. A successor Member will not be liable personally for any act or omission of a predecessor Member.

(c) Every successor Member appointed hereunder shall execute, acknowledge, and deliver to the Claimant Trustee and other Members an instrument accepting the appointment

under this Agreement and agreeing to be bound thereto, and thereupon the successor Member without any further act, deed, or conveyance, shall become vested with all rights, powers, trusts, and duties of a Member hereunder.

4.11 Compensation and Reimbursement of Expenses. Unless determined by the Oversight Board, no Member shall be entitled to compensation in connection with his or her service to the Oversight Board; provided, however, that a Disinterested Member shall be compensated in a manner and amount initially set by the other Members and as thereafter amended from time to time by agreement between the Oversight Board and the Disinterested Member. Notwithstanding the foregoing, the Claimant Trustee will reimburse the Members for all reasonable and documented out-of-pocket expenses incurred by the Members in connection with the performance of their duties hereunder (which shall not include fees, costs, and expenses of legal counsel).

4.12 Confidentiality. Each Member shall, during the period that such Member serves as a Member under this Agreement and following the termination of this Agreement or following such Member's removal or resignation, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any Person to which any of the Claimant Trust Assets relates or of which such Member has become aware in the Member's capacity as a Member ("Confidential Trust Information"), except as otherwise required by law. For the avoidance of doubt, a Member's Affiliates, employer, and employer's Affiliates (and collectively with such Persons' directors, officers, partners, principals and employees, "Member Affiliates") shall not be deemed to have received Confidential Trust Information solely due to the fact that a Member has received Confidential Trust Information in his or her capacity as a Member of the Oversight Board and to the extent that (a) a Member does not disclose any Confidential Trust Information to a Member Affiliate, (b) the business activities of such Member Affiliates are conducted without reference to, and without use of, Confidential Trust Information, and (c) no Member Affiliate is otherwise directed to take, or takes on behalf of a Member or Member Affiliate, any actions that are contrary to the terms of this Section 4.12.

ARTICLE V.
TRUST INTERESTS

5.1 Claimant Trust Interests.

(a) General Unsecured Claim Trust Interests. On the date hereof, or on the date such Claim becomes Allowed under the Plan, the Claimant Trust shall issue General Unsecured Claim Trust Interests to Holders of Allowed Class 8 General Unsecured Claims (the "GUC Beneficiaries"). The Claimant Trustee shall allocate to each Holder of an Allowed Class 8 General Unsecured Claim a General Unsecured Claim Trust Interest equal to the ratio that the amount of each Holder's Allowed Class 8 Claim bears to the total amount of the Allowed Class 8 Claims. The General Unsecured Claim Trust Interests shall be entitled to distributions from the Claimant Trust Assets in accordance with the terms of the Plan and this Agreement.

(b) Subordinated Claim Trust Interests. On the date hereof, or on the date such Claim becomes Allowed under the Plan, the Claimant Trust shall issue Subordinated Claim Trust Interests to Holders of Class 9 Subordinated Claims (the "Subordinated Beneficiaries"). The

Claimant Trustee shall allocate to each Holder of an Allowed Class 9 Subordinated Claim a Subordinated Claim Trust Interest equal to the ratio that the amount of each Holder's Allowed Class 9 Claim bears to the total of amount of the Allowed Class 9. The Subordinated Trust Interests shall be subordinated in right and priority to the General Unsecured Claim Trust Interests. The Subordinated Beneficiaries shall only be entitled to distributions from the Claimant Trust Assets after each GUC Beneficiary has been repaid in full with applicable interest on account of such GUC Beneficiary's Allowed General Unsecured Claim, and all Disputed General Unsecured Claims have been resolved, in accordance with the terms of the Plan and this Agreement.

(c) Contingent Trust Interests. On the date hereof, or on the date such Interest becomes Allowed under the Plan, the Claimant Trust shall issue Contingent Interests to Holders of Allowed Class 10 Class B/C Limited Partnership Interests and Holders of Allowed Class 11 Class A Limited Partnership Interests (collectively, the "Equity Holders"). The Claimant Trustee shall allocate to each Holder of Allowed Class 10 Class B/C Limited Partnership Interests and each Holder of Allowed Class 11 Class A Limited Partnership Interests a Contingent Trust Interest equal to the ratio that the amount of each Holder's Allowed Class 10 or Class 11 Interest bears to the total amount of the Allowed Class 10 or Class 11 Interests, as applicable, under the Plan. Contingent Trust Interests shall not vest, and the Equity Holders shall not have any rights under this Agreement, unless and until the Claimant Trustee files with the Bankruptcy Court a certification that all GUC Beneficiaries have been paid indefeasibly in full, including, to the extent applicable, all accrued and unpaid post-petition interest consistent with the Plan and all Disputed Claims have been resolved (the "GUC Payment Certification"). Equity Holders will only be deemed "Beneficiaries" under this Agreement upon the filing of a GUC Payment Certification with the Bankruptcy Court, at which time the Contingent Trust Interests will vest and be deemed "Equity Trust Interests." The Equity Trust Interests shall be subordinated in right and priority to Subordinated Trust Interests, and distributions on account thereof shall only be made if and when Subordinated Beneficiaries have been repaid in full on account of such Subordinated Beneficiary's Allowed Subordinated Claim, in accordance with the terms of the Plan, the Confirmation Order, and this Agreement. The Equity Trust Interests distributed to Allowed Holders of Class A Limited Partnership Interests shall be subordinated to the Equity Trust Interests distributed to Allowed Holders of Class B/C Limited Partnership Interests.

5.2 Interests Beneficial Only. The ownership of the beneficial interests in the Claimant Trust shall not entitle the Claimant Trust Beneficiaries to any title in or to the Claimant Trust Assets (which title shall be vested in the Claimant Trust) or to any right to call for a partition or division of the Claimant Trust Assets or to require an accounting. No Claimant Trust Beneficiary shall have any governance right or other wright to direct Claimant Trust activities.

5.3 Transferability of Trust Interests. No transfer, assignment, pledge, hypothecation, or other disposition of a Trust Interest may be effected until (i) such action is unanimously approved by the Oversight Board, (ii) the Claimant Trustee and Oversight Board have received such legal advice or other information that they, in their sole and absolute discretion, deem necessary to assure that any such disposition shall not cause the Claimant Trust to be subject to entity-level taxation for U.S. federal income tax purposes, and (iii) either (x) the Claimant Trustee and Oversight Board, acting unanimously, have received such legal advice or other information that they, in their sole and absolute discretion, deem necessary or appropriate to assure that any such disposition shall not (a) require the Claimant Trust to comply with the registration and/or

reporting requirements of the Securities Act, the Exchange Act, the TIA, or the Investment Company Act or (b) cause any adverse effect under the Investment Advisers Act, or (y) the Oversight Board, acting unanimously, has determined, in its sole and absolute discretion, to cause the Claimant Trust to become a public reporting company and/or make periodic reports under the Exchange Act (provided that it is not required to register under the Investment Company Act or register its securities under the Securities Act) to enable such disposition to be made. In the event that any such disposition is allowed, the Oversight Board and the Claimant Trustee may add such restrictions upon such disposition and other terms of this Agreement as are deemed necessary or appropriate by the Claimant Trustee, with the advice of counsel, to permit or facilitate such disposition under applicable securities and other laws.

5.4 Registry of Trust Interests.

(a) Registrar. The Claimant Trustee shall appoint a registrar, which may be the Claimant Trustee (the "Registrar"), for the purpose of recording ownership of the Trust Interests as provided herein. The Registrar, if other than the Claimant Trustee, shall be an institution or person acceptable to the Oversight Board. For its services hereunder, the Registrar, unless it is the Claimant Trustee, shall be entitled to receive reasonable compensation from the Claimant Trust as a Claimant Trust Expense.

(b) Trust Register. The Claimant Trustee shall cause to be kept at the office of the Registrar, or at such other place or places as shall be designated by the Registrar from time to time, a registry of the Claimant Trust Beneficiaries and the Equity Holders (the "Trust Register"), which shall be maintained pursuant to such reasonable regulations as the Claimant Trustee and the Registrar may prescribe.

(c) Access to Register by Beneficiaries. The Claimant Trust Beneficiaries and their duly authorized representatives shall have the right, upon reasonable prior written notice to the Claimant Trustee, and in accordance with reasonable regulations prescribed by the Claimant Trustee, to inspect and, at the expense of the Claimant Trust Beneficiary make copies of the Trust Register, in each case for a purpose reasonable and related to such Claimant Trust Beneficiary's Trust Interest.

5.5 Exemption from Registration. The Parties hereto intend that the rights of the Claimant Trust Beneficiaries arising under this Claimant Trust shall not be "securities" under applicable laws, but none of the Parties represent or warrant that such rights shall not be securities or shall not be entitled to exemption from registration under the applicable securities laws. The Oversight Board, acting unanimously, and Claimant Trustee may amend this Agreement in accordance with Article IX hereof to make such changes as are deemed necessary or appropriate with the advice of counsel, to ensure that the Claimant Trust is not subject to registration and/or reporting requirements of the Securities Act, the Exchange Act, the TIA, or the Investment Company Act. The Trust Interests shall not have consent or voting rights or otherwise confer on the Claimant Trust Beneficiaries any rights similar to the rights of a shareholder of a corporation in respect of any actions taken or to be taken, or decisions made or to be made, by the Oversight Board and/or the Claimant Trustee under this Agreement.

5.6 Absolute Owners. The Claimant Trustee may deem and treat the Claimant Trust Beneficiary of record as determined pursuant to this Article 5 as the absolute owner of such Trust Interests for the purpose of receiving distributions and payment thereon or on account thereof and for all other purposes whatsoever.

5.7 Effect of Death, Incapacity, or Bankruptcy. The death, incapacity, or bankruptcy of any Claimant Trust Beneficiary during the term of the Claimant Trust shall not (i) entitle the representatives or creditors of the deceased Beneficiary to any additional rights under this Agreement, or (ii) otherwise affect the rights and obligations of any of other Claimant Trust Beneficiary under this Agreement.

5.8 Change of Address. Any Claimant Trust Beneficiary may, after the Effective Date, select an alternative distribution address by providing notice to the Claimant Trustee identifying such alternative distribution address. Such notification shall be effective only upon receipt by the Claimant Trustee. Absent actual receipt of such notice by the Claimant Trustee, the Claimant Trustee shall not recognize any such change of distribution address.

5.9 Standing. No Claimant Trust Beneficiary shall have standing to direct the Claimant Trustee to do or not to do any act or to institute any action or proceeding at law or in equity against any party upon or with respect to the Claimant Trust Assets. No Claimant Trust Beneficiary shall have any direct interest in or to any of the Claimant Trust Assets.

5.10 Limitations on Rights of Claimant Trust Beneficiaries.

(a) The Claimant Trust Beneficiaries shall have no rights other than those set forth in this Agreement, the Confirmation Order, or the Plan (including any Plan Supplement documents incorporated therein).

(b) In any action taken by a Claimant Trust Beneficiary against the Claimant Trust, a current or former Trustee, or a current or former Member, in their capacity as such, the prevailing party will be entitled to reimbursement of attorneys' fees and other costs; provided, however, that any fees and costs shall be borne by the Claimant Trust on behalf of any such Trustee or Member, as set forth herein.

(c) A Claimant Trust Beneficiary who brings any action against the Claimant Trust, a current or former Trustee, or a current or former Member, in their capacity as such, may be required by order of the Bankruptcy Court to post a bond ensuring that the full costs of a legal defense can be reimbursed. A request for such bond can be made by the Claimant Trust or by Claimant Trust Beneficiaries constituting in the aggregate at least 50% of the most senior class of Claimant Trust Interests.

(d) Any action brought by a Claimant Trust Beneficiary must be brought in the United States Bankruptcy Court for the Northern District of Texas. Claimant Trust Beneficiaries are deemed to have waived any right to a trial by jury

(e) The rights of Claimant Trust Beneficiaries to bring any action against the Claimant Trust, a current or former Trustee, or current or former Member, in their capacity as such, shall not survive the final distribution by the Claimant Trust.

ARTICLE VI.
DISTRIBUTIONS

6.1 Distributions.

(a) Notwithstanding anything to the contrary contained herein, the Claimant Trustee shall distribute to holders of Trust Interests at least annually the Cash on hand net of any amounts that (a) are reasonably necessary to maintain the value of the Claimant Trust Assets pending their monetization or other disposition during the term of the Claimant Trust, (b) are necessary to pay or reserve for reasonably incurred or anticipated Claimant Trust Expenses and any other expenses incurred by the Claimant Trust (including, but not limited to, any taxes imposed on or payable by the Claimant Trustee with respect to the Claimant Trust Assets), (c) are necessary to pay or reserve for the anticipated costs and expenses of the Litigation Sub-Trust, (d) are necessary to satisfy or reserve for other liabilities incurred or anticipated by the Claimant Trustee in accordance with the Plan and this Agreement (including, but not limited to, indemnification obligations and similar expenses in such amounts and for such period of time as the Claimant Trustee determines, in good faith, may be necessary and appropriate, which determination shall not be subject to consent of the Oversight Board, may not be modified without the express written consent of the Claimant Trustee, and shall survive termination of the Claimant Trustee), (e) are necessary to maintain the Disputed Claims Reserve, and (f) are necessary to pay Allowed Claims in Class 1 through Class 7. Notwithstanding anything to the contrary contained in this paragraph, the Claimant Trustee shall exercise reasonable efforts to make initial distributions within six months of the Effective Date, and the Oversight Board may not prevent such initial distributions unless upon a unanimous vote of the Oversight Board. The Claimant Trustee may otherwise distribute all Claimant Trust Assets on behalf of the Claimant Trust in accordance with this Agreement and the Plan at such time or times as the Claimant Trustee is directed by the Oversight Board.

(b) At the request of the Reorganized Debtor, subject in all respects to the provisions of this Agreement, the Claimant Trustee shall distribute Cash to the Reorganized Debtor, as Distribution Agent with respect to Claims in Class 1 through 7, sufficient to satisfy Allowed Claims in Class 1 through Class 7.

(c) All proceeds of Claimant Trust Assets shall be distributed in accordance with the Plan and this Agreement.

6.2 Manner of Payment or Distribution. All distributions made by the Claimant Trustee on behalf of the Claimant Trust to the Claimant Trust Beneficiaries shall be payable by the Claimant Trustee directly to the Claimant Trust Beneficiaries of record as of the twentieth (20th) day prior to the date scheduled for the distribution, unless such day is not a Business Day, then such date or the distribution shall be the following Business Day, but such distribution shall be deemed to have been completed as of the required date.

6.3 Delivery of Distributions. All distributions under this Agreement to any Claimant Trust Beneficiary shall be made, as applicable, at the address of such Claimant Trust Beneficiary (a) as set forth on the Schedules filed with the Bankruptcy Court or (b) on the books and records

of the Debtor or their agents, as applicable, unless the Claimant Trustee has been notified in writing of a change of address pursuant to Section 5.6 hereof.

6.4 Disputed Claims Reserves. There will be no distributions under this Agreement or the Plan on account of Disputed Claims pending Allowance. The Claimant Trustee will maintain a Disputed Claims Reserve as set forth in the Plan and will make distributions from the Disputed Claims Reserve as set forth in the Plan.

6.5 Undeliverable Distributions and Unclaimed Property. All undeliverable distributions and unclaimed property shall be treated in the manner set forth in the Plan.

6.6 *De Minimis* Distributions. Distributions with a value of less than $100 will be treated in accordance with the Plan.

6.7 United States Claimant Trustee Fees and Reports. **After the Effective Date, the Claimant Trust shall pay as a Claimant Trust Expense, all fees incurred under 28 U.S.C. § 1930(a)(6) by reason of the Claimant Trust's disbursements until the Chapter 11 Case is closed. After the Effective Date, the Claimant Trust shall prepare and serve on the Office of the United States Trustee such quarterly disbursement reports for the Claimant Trust as required by the Office of the United States Trustee Office for as long as the Chapter 11 Case remains open.**

ARTICLE VII.
TAX MATTERS

7.1 Tax Treatment and Tax Returns.

(a) It is intended for the initial transfer of the Claimant Trust Assets to the Claimant Trust to be treated as a grantor trust for federal income tax purposes (and foreign, state, and local income tax purposes where applicable) as if the Debtor transferred the Claimant Trust Assets (other than the amounts set aside in the Disputed Claim Reserve, if the Claimant Trustee makes the election described below) to the Claimant Trust Beneficiaries and then, immediately thereafter, the Claimant Trust Beneficiaries transferred the Claimant Trust Assets to the Claimant Trust. Consistent with such treatment, (i) it is intended that the Claimant Trust will be treated as a grantor trust for federal income tax purposes (and foreign, state, and local income tax purposes where applicable), (ii) it is intended that the Claimant Trust Beneficiaries will be treated as the grantors of the Claimant Trust and owners of their respective share of the Claimant Trust Assets for federal income tax purposes (and foreign, state, and local income tax purposes where applicable). The Claimant Trustee shall file all federal income tax returns (and foreign, state, and local income tax returns where applicable) for the Claimant Trust as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a).

(b) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Beneficiaries of such valuation, and such valuation shall be used consistently by all parties for all federal income tax purposes.

(c) The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the

Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claim Reserve as a separate taxable entity.

7.2 Withholding. The Claimant Trustee may withhold from any amount distributed from the Claimant Trust to any Claimant Trust Beneficiary such sum or sums as are required to be withheld under the income tax laws of the United States or of any state or political subdivision thereof. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable Beneficiary. As a condition to receiving any distribution from the Claimant Trust, the Claimant Trustee may require that the Beneficiary provide such holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Claimant Trustee to comply with applicable tax reporting and withholding laws. If a Beneficiary fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution and treated in accordance with Section 6.5(b) of this Agreement.

ARTICLE VIII.
STANDARD OF CARE AND INDEMNIFICATION

8.1 Standard of Care. None of the Claimant Trustee, acting in his capacity as the Claimant Trustee or in any other capacity contemplated by this Agreement or the Plan, the Delaware Trustee, acting in its capacity as Delaware Trustee, the Oversight Board, or any current or any individual Member, solely in their capacity as Members of the Oversight Board, shall be personally liable to the Claimant Trust or to any Person (including any Claimant Trust Beneficiary) in connection with the affairs of the Claimant Trust, unless it is ultimately determined by order of the Bankruptcy Court or, if the Bankruptcy Court either declines to exercise jurisdiction over such action, or cannot exercise jurisdiction over such action, such other court of competent jurisdiction that the acts or omissions of any such Claimant Trustee, Delaware Trustee, Oversight Board, or Member constituted fraud, willful misconduct, or gross negligence. The employees, agents and professionals retained by the Claimant Trust, the Claimant Trustee, Delaware Trustee, Oversight Board, or individual Member shall not be personally liable to the Claimant Trust or any other Person in connection with the affairs of the Claimant Trust, unless it is ultimately determined by order of the Bankruptcy Court or, if the Bankruptcy Court either declines to exercise jurisdiction over such action, or cannot exercise jurisdiction over such action, such other court of competent jurisdiction that such acts or omissions by such employee, agent, or professional constituted willful fraud, willful misconduct or gross negligence. None of the Claimant Trustee, Delaware Trustee, Oversight Board, or any Member shall be personally liable to the Claimant Trust or to any Person for the acts or omissions of any employee, agent or professional of the Claimant Trust or Claimant Trustee taken or not taken in good faith reliance on the advice of professionals or, as applicable, with the approval of the Bankruptcy Court, unless it is ultimately determined by order of the Bankruptcy Court or, if the Bankruptcy Court either declines to exercise jurisdiction over such action, or cannot exercise jurisdiction over such action, such other court of competent jurisdiction that the Claimant Trustee, Delaware Trustee, Oversight Board, or Member acted with gross negligence or willful misconduct in the selection, retention, or supervision of such employee, agent or professional of the Claimant Trust.

8.2 Indemnification. The Claimant Trustee (including each former Claimant Trustee), WTNA in its individual capacity and as Delaware Trustee, the Oversight Board, and all past and present Members (collectively, in their capacities as such, the "Indemnified Parties") shall be

indemnified by the Claimant Trust against and held harmless by the Claimant Trust from any losses, claims, damages, liabilities or expenses (including, without limitation, attorneys' fees, disbursements, and related expenses) to which the Indemnified Parties may become subject in connection with any action, suit, proceeding or investigation brought or threatened against any of the Indemnified Parties in their capacity as Claimant Trustee, Delaware Trustee, Oversight Board, or Member, or in connection with any matter arising out of or related to the Plan, this Agreement, or the affairs of the Claimant Trust, unless it is ultimately determined by order of the Bankruptcy Court or other court of competent jurisdiction that the Indemnified Party's acts or omissions constituted willful fraud, willful misconduct, or gross negligence. If the Indemnified Party becomes involved in any action, proceeding, or investigation in connection with any matter arising out of or in connection with the Plan, this Agreement or the affairs of the Claimant Trust for which an indemnification obligation could arise, the Indemnified Party shall promptly notify the Claimant Trustee and/or Oversight Board, as applicable; provided, however, that the failure of an Indemnified Party to promptly notify the Claimant Trustee and/or Oversight Board of an indemnification obligation will not excuse the Claimant Trust from indemnifying the Indemnified Party unless such delay has caused the Claimant Trust material harm. The Claimant Trust shall pay, advance or otherwise reimburse on demand of an Indemnified Party the Indemnified Party's reasonable legal and other defense expenses (including, without limitation, the cost of any investigation and preparation and attorney fees, disbursements, and other expenses related to any claim that has been brought or threatened to be brought) incurred in connection therewith or in connection with enforcing his or her rights under this Section 8.2 as a Claimant Trust Expense, and the Claimant Trust shall not refuse to make any payments to the Indemnified Party on the assertion that the Indemnified Party engaged in willful misconduct or acted in bad faith; provided that the Indemnified Party shall be required to repay promptly to the Claimant Trust the amount of any such advanced or reimbursed expenses paid to the Indemnified Party to the extent that it shall be ultimately determined by Final Order that the Indemnified Party engaged in willful fraud, willful misconduct, or gross negligence in connection with the affairs of the Claimant Trust with respect to which such expenses were paid; provided, further, that any such repayment obligation shall be unsecured and interest free. The Claimant Trust shall indemnify and hold harmless the employees, agents and professionals of the Claimant Trust and Indemnified Parties to the same extent as provided in this Section 8.2 for the Indemnified Parties. For the avoidance of doubt, the provisions of this Section 8.2 shall remain available to any former Claimant Trustee, WTNA in its individual capacity and as Delaware Trustee, or Member or the estate of any decedent Claimant Trustee or Member, solely in their capacities as such. The indemnification provided hereby shall be a Claimant Trust Expense and shall not be deemed exclusive of any other rights to which the Indemnified Party may now or in the future be entitled to under the Plan or any applicable insurance policy. The failure of the Claimant Trust to pay or reimburse an Indemnified Party as required under this Section 8.2 shall constitute irreparable harm to the Indemnified Party and such Indemnified Party shall be entitled to specific performance of the obligations herein. The terms of this Section 8.2 shall survive the termination of this Agreement and the resignation or removal of any Indemnified Party.

8.3 No Personal Liability. Except as otherwise provided herein, neither of the Trustees nor Members of the Oversight Board shall be subject to any personal liability whatsoever, whether in tort, contract, or otherwise, to any Person in connection with the affairs of the Claimant Trust to the fullest extent provided under Section 3803 of the Delaware Statutory Trust Act, and all Persons asserting claims against the Claimant Trustee, Litigation Trustee, or any Members, or

otherwise asserting claims of any nature in connection with the affairs of the Claimant Trust, shall look solely to the Claimant Trust Assets for satisfaction of any such claims.

8.4 Other Protections. To the extent applicable and not otherwise addressed herein, the provisions and protections set forth in Article IX of the Plan will apply to the Claimant Trust, the Claimant Trustee, the Litigation Trustee, and the Members.

ARTICLE IX.
TERMINATION

9.1 Duration. The Trustees, the Claimant Trust, and the Oversight Board shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Clamant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets.

9.2 Distributions in Kind. Upon dissolution of the Claimant Trust, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

9.3 Continuance of the Claimant Trustee for Winding Up. After dissolution of the Claimant Trust and for purpose of liquidating and winding up the affairs of the Claimant Trust, the Claimant Trustee shall continue to act as such until the Claimant Trustee's duties have been fully performed. Prior to the final distribution of all remaining Claimant Trust Assets, the Claimant Trustee shall be entitled to reserve from such assets any and all amounts required to provide for the Claimant Trustee's own costs and expenses, including a reserve to fund any potential indemnification or similar obligations of the Claimant Trust, until such time as the winding up of the Claimant Trust is completed. Upon the dissolution of the Claimant Trust and completion of the winding up of the assets, liabilities and affairs of the Claimant Trust pursuant to the Delaware Statutory Trust Act, the Claimant Trustee shall prepare, execute and file a certificate of cancellation with the State of Delaware to terminate the Claimant Trust pursuant to Section 3810 of the Delaware Statutory Trust Act (such date upon which the certificate of cancellation is filed shall be referred to as the "Termination Date"). If the Delaware Trustee's signature is required for purposes of filing such certificate of cancellation, the Claimant Trustee shall provide the Delaware

Trustee with written direction to execute such certificate of cancellation, and the Delaware Trustee shall be entitled to conclusively and exclusively rely upon such written direction without further inquiry. Upon the Termination date, the Claimant Trustee shall retain for a period of two (2) years, as a Claimant Trust Expense, the books, records, Claimant Trust Beneficiary lists, and certificated and other documents and files that have been delivered to or created by the Claimant Trustee. At the Claimant Trustee's discretion, all of such records and documents may, but need not, be destroyed at any time after two (2) years from the Termination Date.

9.4 Termination of Duties. Except as otherwise specifically provided herein, upon the Termination Date of the Claimant Trust, the Claimant Trustee, the Oversight Board and its Members shall have no further duties or obligations hereunder.

9.5 No Survival. The rights of Claimant Trust Beneficiaries hereunder shall not survive the Termination Date, provided that such Claimant Trust Beneficiaries are provided with notice of such Termination Date.

ARTICLE X.
AMENDMENTS AND WAIVER

The Claimant Trustee, with the consent of a simple majority of the Oversight Board, may amend this Agreement to correct or clarify any non-material provisions. This Agreement may not otherwise be amended, supplemented, otherwise modified, or waived in any respect except by an instrument in writing signed by the Claimant Trustee and with the unanimous approval of the Oversight Board, and the approval of the Bankruptcy Court, after notice and a hearing; provided that the Claimant Trustee must provide the Oversight Board with prior written notice of any non-material amendments, supplements, modifications, or waivers of this Agreement. No amendment or waiver of this Agreement that adversely affects the Delaware Trustee shall be effective unless the Delaware Trustee has consented thereto in writing in its sole and absolute discretion.

ARTICLE XI.
MISCELLANEOUS

11.1 Trust Irrevocable. Except as set forth in this Agreement, establishment of the Claimant Trust by this Agreement shall be irrevocable and shall not be subject to revocation, cancellation or rescission by the Claimant Trust Beneficiaries.

11.2 Bankruptcy of Claimant Trust Beneficiaries. The dissolution, termination, bankruptcy, insolvency or other similar incapacity of any Claimant Trust Beneficiary shall not permit any creditor, trustee, or any other Claimant Trust Beneficiary to obtain possession of, or exercise legal or equitable remedies with respect to, the Claimant Trust Assets.

11.3 Claimant Trust Beneficiaries have No Legal Title to Claimant Trust Assets. No Claimant Trust Beneficiary shall have legal title to any part of the Claimant Trust Assets.

11.4 Agreement for Benefit of Parties Only. Nothing herein, whether expressed or implied, shall be construed to give any Person other than the Claimant Trustee, Oversight Board, and the Claimant Trust Beneficiaries any legal or equitable right, remedy or claim under or in

respect of this Agreement. The Claimant Trust Assets shall be held for the sole and exclusive benefit of the Claimant Trust Beneficiaries.

11.5 Notices. All notices, directions, instructions, confirmations, consents and requests required or permitted by the terms hereof shall, unless otherwise specifically provided herein, be in writing and shall be sent by first class mail, facsimile, overnight mail or in the case of mailing to a non-United States address, air mail, postage prepaid, addressed to:

(a) If to the Claimant Trustee:

Claimant Trustee
c/o Highland Capital Management, L.P.
100 Crescent Court, Suite 1850
Dallas, Texas 75201

With a copy to:

Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd, 13th Floor
Los Angeles, CA 90067
Attn: Jeffrey Pomerantz (jpomerantz@pszjlaw.com)
Ira Kharasch (ikharasch@pszjlaw.com)
Gregory Demo (gdemo@pszjlaw.com)

(b) If to the Delaware Trustee:

Wilmington Trust, National Association
1100 North Market Street
Wilmington, DE 19890
Attn: Corporate Trust Administration/David Young
Email: nmarlett@wilmingtontrust.com
Phone: (302) 636-6728
Fax: (302) 636-4145

Notice mailed shall be effective on the date mailed or sent. Any Person may change the address at which it is to receive notices under this Agreement by furnishing written notice pursuant to the provisions of this Section 11.5 to the entity to be charged with knowledge of such change.

11.6 Severability. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in another jurisdiction.

11.7 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

11.8 Binding Effect, etc. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Claimant Trust, the Claimant Trustee, and the Claimant Trust Beneficiaries, and their respective successors and assigns. Any notice, direction, consent, waiver or other instrument or action by any Claimant Trust Beneficiary shall bind its successors and assigns.

11.9 Headings; References. The headings of the various Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

11.10 Governing Law. This Agreement shall in all respects be governed by, and construed in accordance with the laws of the State of Delaware, including all matters of constructions, validity and performance.

11.11 Consent to Jurisdiction. Each of the parties hereto, each Member (solely in their capacity as Members of the Oversight Board), and each Claimant Trust Beneficiary consents and submits to the exclusive jurisdiction of the Bankruptcy Court for any action or proceeding instituted for the enforcement and construction of any right, remedy, obligation, or liability arising under or by reason of this Agreement, the Plan or any act or omission of the Claimant Trustee (acting in his capacity as the Claimant Trustee or in any other capacity contemplated by this Agreement or the Plan), Litigation Trustee (acting in his capacity as the Litigation Trustee or in any other capacity contemplated by this Agreement or the Plan), the Oversight Board. or any individual Member (solely in their capacity as Members of the Oversight Board); *provided, however*, that if the Bankruptcy Court either declines to exercise jurisdiction over such action or cannot exercise jurisdiction over such action, such action may be brought in the state or federal courts located in the Northern District of Texas.

11.12 Transferee Liabilities. The Claimant Trust shall have no liability for, and the Claimant Trust Assets shall not be subject to, any claim arising by, through or under the Debtor except as expressly set forth in the Plan or in this Agreement. In no event shall the Claimant Trustee or the Claimant Trust Beneficiaries have any personal liability for such claims. If any liability shall be asserted against the Claimant Trust or the Claimant Trustee as the transferee of the Claimant Trust Assets on account of any claimed liability of, through or under the Debtor or Reorganized Debtor, the Claimant Trustee may use such part of the Claimant Trust Assets as may be necessary to contest any such claimed liability and to pay, compromise, settle or discharge same on terms reasonably satisfactory to the Claimant Trustee as a Claimant Trust Expense.

[Remainder of Page Intentionally Blank]

IN WITNESS HEREOF, the parties hereto have caused this Claimant Trust Agreement to be duly executed by their respective officers thereunto duly authorized on the day and year first written above.

Highland Capital Management, L.P.

By: _____
James P. Seery, Jr.
Chief Executive Officer and
Chief Restructuring Officer

Claimant Trustee

By: _____
James P. Seery, Jr., not individually but solely in his capacity as the Claimant Trustee

Wilmington Trust, National Association,
as Delaware Trustee

By: _____
Name: Neumann Marlett
Title: Bank Officer

EXHIBIT 50

From: "John A. Morris" <jmorris@pszjlaw.com>
Date: March 10, 2022 at 6:29:37 PM GMT
To: jpseeryjr@gmail.com, Thomas Surgent <TSurgent@highlandcapital.com>, David Klos <DKlos@highlandcapital.com>
Cc: Jeff Pomerantz <jpomerantz@pszjlaw.com>, "Gregory V. Demo" <GDemo@pszjlaw.com>
Subject: FW: Highland: Daugherty Settlement (RCP Track Record)

FYI

From: John A. Morris
Sent: Thursday, March 10, 2022 1:23 PM
To: 'Drew K. York' <dyork@grayreed.com>; Thomas Uebler <tuebler@mdsulaw.com>
Cc: Gregory V. Demo (GDemo@pszjlaw.com) <GDemo@pszjlaw.com>
Subject: Highland: Daugherty Settlement (RCP Track Record)

Drew and Tom,

In accordance with paragraph 4 of the settlement, attached is data and information constituting investment performance track record of RCP during Pat's tenure at HCMLP (the "Track Record Data").

The Track Record Data is being provided solely in accordance with the Settlement Agreement between the parties, and no representation or warranty is made regarding the content of such Data. HCMLP has no duty, responsibility, or obligation to determine whether any use of such information by Pat complies with applicable law, including applicable securities laws, rules and regulations. Past Performance does not guarantee future results. Performance during time periods shown is limited to those periods and do not reflect the performance in subsequent periods, including any impacts of different economic or market cycles. There can be no assurance that similar performance will be experienced. More complete information regarding the RCP fund, including any fees charged by the fund, are contained in the offering documents for the Fund.

Please let me know if you have any questions.

Regards,

John

John A. Morris
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 212.561.7760
Tel: 212.561.7700 | Fax: 212.561.7777
jmorris@pszjlaw.com
vCard | Bio | LinkedIn

<image002.png>

Los Angeles | San Francisco | Wilmington, DE | New York | Houston

<RCP - Historical Returns (Quarterly) through 10.31.11.xlsx>
<Highland RCP Offshore Dec 31 2009 Signed Opinion.pdf>
<Highland RCP Onshore Dec 31 2009 signed opinion.pdf>
<Highland Restoration Capital 12-31-08.pdf>
<Highland Restoration Offshore 12-31-08 Final.pdf>
<RCP Offshore 12.31.10 AFS.pdf>
<RCP Onshore 12.31.10 AFS.pdf>
<Highland Restoration Capital Partners LP 2011 AFS_FINAL.pdf>
<Highland Restoration Capital Partners Offshore LP 2011 FINAL.pdf>

EXHIBIT 51

From: James Romey <jromey@dsiconsulting.com>
Date: October 24, 2022 at 11:49:30 PM GMT+1
To: James Seery <jpseeryjr@gmail.com>, Patrick Daugherty <pdaugherty@glacierlakecap.com>
Cc: Thomas Uebler <tuebler@mdsulaw.com>, pdaugherty <pdaugherty@newhighlandcapital.com>, David Klos <DKlos@highlandcapital.com>, Thomas Surgent <TSurgent@highlandcapital.com>, "James Seery Jr." <jseery@highlandcapital.com>
Subject: RE: Daugherty Settlement Agreement Follow-Up

Patrick and Thomas,

You should receive an email from Sharefile with your access shortly. Let me know if you're still having trouble or don't receive the e-mail.

James

James Romey
Director
Development Specialists, Inc.
10 S. LaSalle Street, Suite 3300
Chicago, IL 60603
+1.312.263.4141 | office
+1.415.517.5502 | direct
www.DSIConsulting.com

This e-mail message may contain legally privileged and/or confidential information. If you are not the intended recipient(s), or the employee or agent responsible for delivery of this message to the intended recipient(s), you are hereby notified that any dissemination, distribution or copying of this e-mail message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

From: James Seery <jpseeryjr@gmail.com>
Sent: Monday, October 24, 2022 5:42 PM
To: Patrick Daugherty <pdaugherty@glacierlakecap.com>
Cc: Thomas Uebler <tuebler@mdsulaw.com>; pdaugherty <pdaugherty@newhighlandcapital.com>; David Klos <DKlos@highlandcapital.com>; Thomas Surgent <TSurgent@highlandcapital.com>; James Seery Jr. <jseery@highlandcapital.com>
Subject: Re: Daugherty Settlement Agreement Follow-Up

DSI will send an email with an invite link. We will use the new email below.

Thanks.

Jim

Sent from my iPhone

On Oct 24, 2022, at 6:36 PM, Patrick Daugherty <pdaugherty@glacierlakecap.com> wrote:

Also, please use my pdaugherty@newhighlandcapital.com address for access purposes.

thanks

Patrick H Daugherty, Esq.
President and Chief Investment Officer

Glacier Lake Capital Advisors
(t) +1 214.932.9140 **(m)** +1 972.679.7487
(e) pdaugherty@glacierlakecap.com

From: Patrick Daugherty <pdaugherty@glacierlakecap.com>
Sent: Monday, October 24, 2022 5:31 PM
To: James Seery <jpseeryjr@gmail.com>; Thomas Uebler <tuebler@mdsulaw.com>
Cc: David Klos <dklos@highlandcapital.com>; Thomas Surgent <tsurgent@highlandcapital.com>
Subject: Re: Daugherty Settlement Agreement Follow-Up

Sorry if I missed it but is there a link for me to access this data?

Patrick H Daugherty, Esq.
President and Chief Investment Officer

Glacier Lake Capital Advisors
(t) +1 214.932.9140 **(m)** +1 972.679.7487
(e) pdaugherty@glacierlakecap.com

From: Patrick Daugherty <pdaugherty@glacierlakecap.com>
Sent: Monday, October 24, 2022 5:26 PM
To: James Seery <jpseeryjr@gmail.com>; Thomas Uebler <tuebler@mdsulaw.com>
Cc: David Klos <dklos@highlandcapital.com>; Thomas Surgent <tsurgent@highlandcapital.com>
Subject: Re: Daugherty Settlement Agreement Follow-Up

Thanks Jim. Please add Tom Huebler (copied) for access to the HERA data site.

Best - Pat

Patrick H Daugherty, Esq.
President and Chief Investment Officer

Glacier Lake Capital Advisors
(t) +1 214.932.9140 **(m)** +1 972.679.7487
(e) pdaugherty@glacierlakecap.com

From: James Seery <jpseeryjr@gmail.com>
Sent: Monday, October 24, 2022 11:57 AM
To: Patrick Daugherty <pdaugherty@glacierlakecap.com>
Cc: David Klos <dklos@highlandcapital.com>; Thomas Surgent <tsurgent@highlandcapital.com>
Subject: Re: Daugherty Settlement Agreement Follow-Up

Pat:

Following up on the distribution below.

We took the liberty of setting up the distribution through developmentspecialists.sharefile.com using your Glacier Lake Capital email address (pdaugherty@glacierlakecap.com). Please let us know if you would prefer to use another email or you want anyone else added to the site. You should be receiving any email to Glacier Lake that will provide you with access to the site.

We propose to keep the site open until the close of business on October 31, 2022. That should give you and any of your lawyers or accountants (that you advise us to provision with their email addresses) plenty of time to download the information.

Please let me know if this works for you.

Best. Jim

Jim Seery
631-804-2049
jpseeryjr@gmail.com

From: James Seery <jpseeryjr@gmail.com>
Date: Wednesday, October 19, 2022 at 1:23 PM
To: Patrick Daugherty <pdaugherty@glacierlakecap.com>
Cc: David Klos <dklos@highlandcapital.com>, Thomas Surgent <tsurgent@highlandcapital.com>
Subject: Daugherty Settlement Agreement Follow-Up

Pat,

To follow-up on your recent request for additional information pertaining to the HERA/ERA entities, members of the Highland team have worked to gather further

documentation for you. We previously provided corporate documents to you as well as the Quickbooks accounting file to your accountants using their file sharing system.

If acceptable to you, we propose to deliver this new large document delivery (400+ files) via DSI's Sharefile system. Use is straight forward and allows you to download all of the files in an orderly manner. Otherwise, please let me know if there is a different way you would prefer to receive these additional electronic files.

Under our settlement agreement, HCMLP agreed to "transfer its interests in HERA and ERA" to you, and that transfer "include[s] the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system." The transfers are without any liability or material cost to HCMLP. HCMLP also agreed to provide reasonable assistance to you in the preparation of HERA K-1s for 2021.

HCMLP previously made these entity and record transfers and provided books and records information through summarized financial statements and general ledger detail in excel spreadsheets, historical tax returns, governing documents, the raw Quickbooks file containing the historical accounting data, and a spreadsheet detailing the amounts charged by HCMLP to HERA down to the invoice level. HCMLP also prepared and signed the 2021 HERA tax returns with your (and your accountants) input and approval.

While we believe the information already provided satisfied HCMLP's undertakings under the settlement agreement, we nevertheless understand your request for additional HERA and ERA information and have been able to gather the further documentation broken down as follows (some of which may be duplicative to certain documents you've already received, but we are re-including regardless):

HERA

1. Governing documents
2. Amendments
3. Assignments
4. Correspondence
5. Director resignations
6. Expense allocations (resolutions + allocation agreement)
    1. Actual copies of invoices (330+ individual invoices across 36 different vendors or law firms tracked down and will be transmitted; <10% couldn't be located and are therefore not included)
7. Other resolutions
8. Transfer agreements

ERA

1. Governing documents

There is less documentation regarding ERA because it was solely a management entity. It did not have any economic activity, did not generate financials, and was a disregarded entity for tax purposes.

At your request, we also included excel tracking spreadsheets summarizing the assets of HERA from 2009 to May 2012 as well as the individual unit holder's respective interests in HERA. This file was maintained by HCMLP and appears to be an HCMLP business record tracking "The Vessel" (as HERA was sometimes known) and the interests of HCMLP employees in The Vessel.

We have also included certain additional HERA records that we have found relating to HERA assets and distributions to vested HERA participants. These records include: (i) miscellaneous spreadsheets reflecting various items, including actual cash distributions to vested participants; (ii) Smith Barney statements reflecting cash of HERA and ownership of NHF; and (iii) RCP Statements reflecting HERA interests.

Upon transmission of the information described above, HCMLP will have satisfied all of its obligations under the settlement agreement, and our involvement in HERA/ERA (your entities) will be complete. Of course, to the extent one-off questions come up, you're always welcome to contact me. Best of luck with these entities.

And again, as requested above please let us know how you would like us to deliver these files.

Best. Jim

Jim Seery
631-804-2049
jpseeryjr@gmail.com

EXHIBIT 52

From: John A. Morris <jmorris@pszjlaw.com>
Sent: Friday, April 1, 2022 11:42 AM
To: Jim Seery; Thomas Surgent; David Klos
Cc: Jeff Pomerantz; Gregory V. Demo
Subject: FW: Highland: HERA and ERA Transfer Documents (execution versions)
Attachments: Receipt_2022-04-01_113009.pdf; Daugherty Joinder Gray 3-29-22.pdf

For your records.

From: John A. Morris
Sent: Friday, April 01, 2022 11:40 AM
To: 'Thomas Uebler'
Cc: James O'Neill ; Gregory V. Demo (GDemo@pszjlaw.com) ; 'Drew K. York'
Subject: Highland: HERA and ERA Transfer Documents (execution versions)

Tom:

Attached are fully executed copies of the HERA and ERA transfer documents.

Please (a) work with my partner, Jamie O'Neill, to file the dismissals of the Delaware cases against HCMLP and Mr. Surgent, and (b) release from escrow the *Limited Joinder* I sent to you on March 23 (also attached is the signature of Matthew Gray).

With that, I believe everything required under the Settlement will have been completed but please let me know if I'm overlooking anything.

And thank you, and Drew, for your cooperation throughout this process.

Regards,

John

John A. Morris
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 212.561.7760
Tel: 212.561.7700 | Fax: 212.561.7777
jmorris@pszjlaw.com
vCard | Bio | LinkedIn

Los Angeles | San Francisco | Wilmington, DE | New York | Houston

TRANSFER AGREEMENT

This Transfer Agreement (this "***Agreement***") is entered into by and between Highland Capital Management, L.P. ("***Transferor***") and Patrick Hagaman Daugherty ("***Transferee***"). Each of Transferor and Transferee are individually referred to as a "***Party***" and together, collectively referred to as the "***Parties.***"

WHEREAS, Transferor is the sole member of Highland ERA Management, LLC, a Delaware limited liability company ("***ERA***", and such membership interest, the "***Interest***");

WHEREAS, Transferor and Transferee are parties to that certain Settlement Agreement dated November 21, 2021 (the "***Settlement***");

WHEREAS, Section 8 of the Settlement requires Transferor to transfer its interest in ERA to Transferee as contemplated more fully in the Settlement;

WHEREAS, in satisfaction of its obligations under Section 8 of the Settlement, Transferor desires to transfer the Interest to Transferee, as provided more fully below.

NOW, THEREFORE AND IN CONSIDERATION of the mutual covenants contained herein, and other good and valuable consideration, the parties intending to be legally bound hereby agree as follows:

1. Transfer of Interest. Transferor hereby sells, transfers, assigns, sets over and otherwise conveys to Transferee, and Transferee hereby receives and takes from Transferor, all right, title and interest of Transferor in, to and under the Interest.

2. Applicable Law. It is also understood and agreed that this Agreement shall be governed by and construed in accordance with Delaware law, without regard to its conflict of laws rules.

3. Modification of Agreement. It is expressly understood and agreed that this Agreement may not be altered, amended, waived, modified, or otherwise changed in any respect or particular whatsoever, except in writing, which writing must be signed by authorized representatives of each Party.

4. Execution of Agreement. It is understood and agreed that this Agreement may be executed in any number of identical counterparts, each of which shall be deemed original for all purposes.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the date appearing next to each Party's signature and this Agreement shall be effective on the date the last signature has been signed upon this Agreement.

TRANSFEROR:

HIGHLAND CAPITAL MANAGEMENT, L.P.

By:
Name:
Title: CEO/CRO

Dated: 4/1/22

TRANSFEREE:

Patrick Hagaman Daugherty

Date: 4/1/22

TRANSFER AGREEMENT

This Transfer Agreement (this "***Agreement***") is entered into by and between Highland Capital Management, L.P. ("***Transferor***") and Patrick Hagaman Daugherty ("***Transferee***"). Each of Transferor and Transferee are individually referred to as a "***Party***" and together, collectively referred to as the "***Parties.***"

WHEREAS, Transferor purports to be the sole Member of Highland Employee Retention Assets LLC, a Delaware limited liability company ("***HERA***"), and Transferor and Transferee are the only holders of HERA's outstanding Common Units and Series A Preferred Units (such Common Units and Series A Preferred Units collectively, the "***Interests***");

WHEREAS, Transferor and Transferee are parties to that certain Settlement Agreement dated November 21, 2021 (the "***Settlement***"); and

WHEREAS, Section 8 of the Settlement requires Transferor to transfer its interests in HERA to Transferee as contemplated more fully in the Settlement.

NOW, THEREFORE AND IN CONSIDERATION of the mutual covenants contained herein, and other good and valuable consideration as set forth in the Settlement, the parties intending to be legally bound hereby agree as follows:

1. Transfer of Interests. Transferor hereby sells, transfers, assigns, sets over and otherwise conveys to the Transferee, and the Transferee Designee hereby receives and takes from Transferor, all right, title and interest in and to the Transferor's Interests.

2. Applicable Law. It is also understood and agreed that this Agreement shall be governed by and construed in accordance with Delaware law, without regard to its conflict of laws rules.

3. Modification of Agreement. It is expressly understood and agreed that this Agreement may not be altered, amended, waived, modified, or otherwise changed in any respect or particular whatsoever, except in writing, which writing must be signed by authorized representatives of each Party.

4. Execution of Agreement. It is understood and agreed that this Agreement may be executed in any number of identical counterparts, each of which shall be deemed original for all purposes.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the date appearing next to each Party's signature and this Agreement shall be effective on the date the last signature has been signed upon this Agreement.

TRANSFEROR:

HIGHLAND CAPITAL MANAGEMENT, L.P.

By:
Name:
Title: CEO/CIO

Dated: 4/1/22

TRANSFEREE:

By: Patrick Haganan Daugherty

Date: 4/1/22

The undersigned consents and agrees to the Transfers and each of the provisions hereof applicable to the undersigned:

HIGHLAND ERA MANAGEMENT, LLC

By:
Name: Patrick H. Daugherty
Title: President and Chief Investment Officer
Date: 4/1/22

MDSU W0280435.v2

IN WITNESS WHEREOF, each of the undersigned, intending to be legally bound, have executed this Limited Joinder Agreement as of the respective dates set forth below:

Date: _____ _____
James P. Seery, Jr.

Date: _____ _____
Cameron Baynard

Date: _____ _____
Nathan Burns

Date: _____ _____
Timothy Cournoyer

Date: _____ _____
Naomi Chisum

Date: _____ _____
Stetson Clark

Date: _____ _____
Sean Fox

Date: 3/29/22 _____
Matthew Gray

Date: _____ _____
Kristin Hendrix

Date: _____ _____
David Klos

Date: _____ _____
Vishal Patel

Date: _____ _____
Thomas Surgent

Date: _____ _____
Michael Throckmorton

EXHIBIT 53

PDADV_008361-PDADV_008362

GRAY REED

ANDREW K. YORK
DIRECT DIAL: (469) 320-6114
EMAIL: dyork@grayreed.com

1601 ELM STREET, SUITE 4600
DALLAS, TEXAS 75201
www.grayreed.com

January 30, 2024

VIA EMAIL: jmorris@pszjlaw.com

Mr. John Morris
PACHULSKI STANG ZIEHL & JONES LLP
780 Third Avenue, 34th Floor
New York, NY 10017-2024

Re: Highland Capital Management, L.P. and Patrick Daugherty Settlement Agreement

Dear John:

As you know, Gray Reed represents Patrick Daugherty and Highland Employee Retention Assets, LLC ("HERA" or the "Vessel"). Pursuant to the November 22, 2021 settlement agreement between Highland Capital Management, L.P. ("Highland") and Mr. Daugherty, Highland transferred its interests in HERA to Mr. Daugherty and his affiliates. The transfer included the HERA books and records maintained on Highland's system.

As Mr. Daugherty and Mr. Seery discussed last summer, Mr. Daugherty and HERA appreciate the documents Highland has provided to date. However, HERA continues to seek the remaining source documents, emails, governance actions, and other activity of HERA since its inception. For example, HERA has not received any email correspondence between HERA's in-house counsel (Scott Ellington, Isaac Leventon, Thomas Surgent, Eric Girard, and others) and HERA's outside legal counsel at Gruber Hurst, Andrews Kurth, DLA Piper, and Abrams and Bayliss, among others. Other email exchanges regarding the transfer of assets, allocation of expenses, creation of governance documents, solicitation of preferred unit holder signatures, board member communication, and anyone directing the operations of HERA is all important to the continuing operations of HERA. Additionally, HERA has received only a few documents in native format. Those documents were Microsoft Excel files. Highland has not produced any Microsoft Word or Powerpoint documents in native format (with corresponding metadata) despite the production of numerous PDF documents that indicate they were originally created using Word or Powerpoint. The metadata associated with both the native files and PDF versions are of critical importance to HERA.

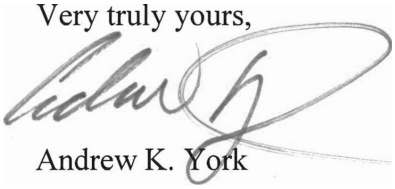
Accordingly, HERA requests Highland supplement its production of the transferred books and records with at least the following categories:

- All original Word, Excel and Powerpoint documents concerning HERA or the Vessel. This request include originally created documents and drafts, as well as modified or amended versions of the same.
- All email correspondence concerning HERA or the Vessel.
- All documents related to the transfer of HERA or the Vessel assets.
- All documents related to expenses of HERA or Vessel assets.
- All email and documents concerning HERA or Vessel assets, legal communications, tax issues, or unit holder communications.

All of these requested documents, files and communications should include the corresponding metadata. I am happy to discuss with you what metadata should be included with the load file for the production. Finally, I recommend Highland utilize an outside vendor to collect and produce these requested documents, files and communications due to the sensitive nature of the information, as well as any potential for a conflict of interest among any existing Highland employees that are asked to participate in the collection and production efforts.

Again, my clients appreciate Highland's efforts on this matter to date, and its attention to these additional requests. Please feel free to reach out to me if you have any questions.

Very truly yours,



Andrew K. York

AKY/sll

cc: Patrick Daugherty (via email)

EXHIBIT 54

PDADV_008363-PDADV_008365

From: "John A. Morris" <jmorris@pszjlaw.com>
To: "dyork@grayreed.com" <dyork@grayreed.com>
CC: Jeff Pomerantz <jpomerantz@pszjlaw.com>, "Gregory V. Demo" <GDemo@pszjlaw.com>
Subject: [EXTERNAL] Highland Capital/HERA
Date: Tue, 5 Mar 2024 22:54:58 +0000
Inline-Images: logo_2ae552f4-f7fd-481b-9e82-8e233ab81b9e.jpg; image001.jpg

---

Drew,

On March 8, 2022, the court entered an order approving the settlement between Highland and Mr. Daugherty. Docket No. 3299. Since that time, HCMLP has provided an enormous number of documents and information to Mr. Daugherty as required by the settlement. HCMLP believes that after these exhaustive, good faith efforts it has fully complied with all of its obligation under the Settlement Agreement.

To summarize:

- on March 10, 2022, we sent an e-mail to you with certain books and records,
- on May 5, 2022, we sent three separate e-mails to Mr. Uebler with more books and records,
- last year, HCMLP made available to Mr. Daugherty and his accountant a share site file depository with 180 MBs of data including (a) corporate and related documents from the legal filing system; (b) 11 years' worth of financial statements exported from QuickBooks (which include detailed, entry-level financials for each year encapsulating all recorded accounting entries for HERA); (c) approximately 320 invoices from 35 different vendors (nearly all of which were law firms); (d) nearly 30 other statements and spreadsheets; and (e) nine years of tax returns.
- In addition—with no obligation to do so—the HCMLP team helped in the filing of the HERA tax returns during the transition year and provided historical RCP return information.

Under the circumstances, HCMLP stands by its prior statement that it has fulfilled its obligations under the Settlement Agreement.

For completeness, and to avoid any misunderstanding, we strongly disagree with your suggestion that emails constitute "books and records." Even if they did, (a) HERA and ERA had no employees, (b) no person used an e-mail address with a "HERA" or "ERA" URL, (c) neither HERA nor ERA ever had a shared services agreement with HCMLP, and (d) HCMLP's e-mails are not now, and never were, HERA and ERA's property.

HCMLP reserves all rights under the Court's order and with respect to any further request for "books and records." We consider this matter closed.

Please let me know if you have any questions.

Regards,

John
John A. Morris
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 212.561.7760
Tel: 212.561.7700 | Fax: 212.561.7777

jmorris@pszjlaw.com
vCard | Bio | LinkedIn

Los Angeles | New York | Wilmington, DE | Houston | San Francisco

---

From: Drew K. York <dyork@grayreed.com>
Sent: Friday, March 1, 2024 6:48 PM
To: John A. Morris <jmorris@pszjlaw.com>
Subject: FW: Highland Capital/HERA

Hi John,

I never received a response to the attached letter I sent a month ago. Additionally, please see the attached complaint filed yesterday in the Northern District of Texas. To the extent any of the individuals named in the complaint would otherwise be involved in the collection and review process associated with the requests in my letter, I once again ask that those individuals be excluded from that process to ensure that all responsive materials are not modified or destroyed.

I look forward to hearing from you.

Regards,
Drew

From: Drew K. York <dyork@grayreed.com>
Sent: Tuesday, January 30, 2024 6:38 PM
To: jmorris@pszjlaw.com
Subject: Highland Capital/HERA

Hi John,

I hope you are doing well. Please see the attached letter. I look forward to hearing from you.

Regards,
Drew

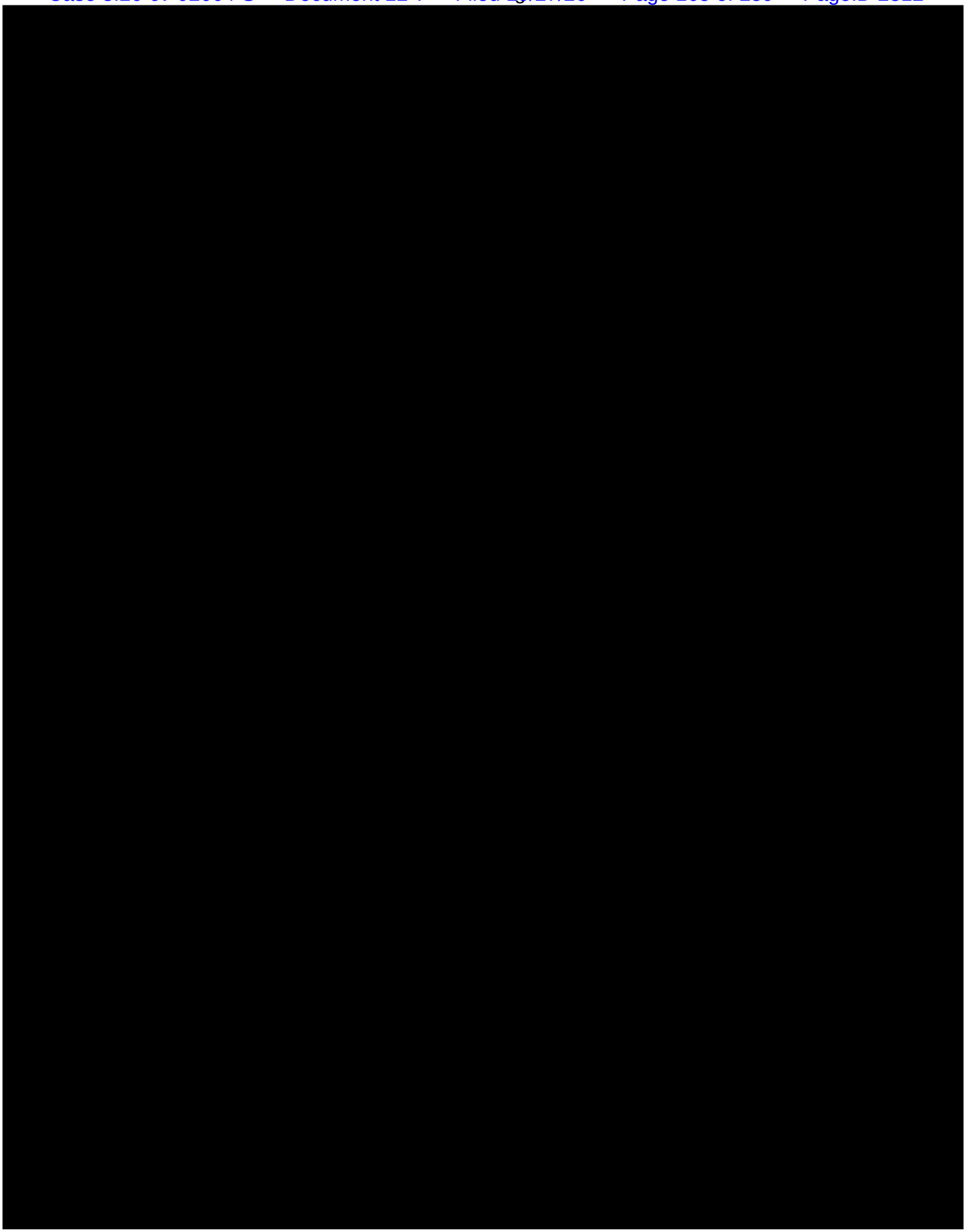
Drew K. York
Partner
Tel 469.320.6114 | Fax 469.320.6883 | dyork@grayreed.com
1601 Elm St., Suite 4600 | Dallas, TX 75201
grayreed.com | Connect with me on LinkedIn

GRAY REED

CONFIDENTIALITY NOTICE: This electronic transmission and any attachments constitute confidential information which is intended only for the named recipient(s) and may be legally privileged. If you have received this communication in error, please contact the sender immediately. Any disclosure, copying, distribution or the taking of any action concerning the contents of this communication by anyone other than the named recipient(s) is strictly prohibited.

EXHIBIT 55

PDADV_010229-PDADV_010232



[redacted]

From: Patrick Daugherty <pdaugherty@glacierlakecap.com>
Sent: Wednesday, November 2, 2022 12:16 PM
To: James Seery <jpseeryjr@gmail.com>
Subject: Re: Daugherty Settlement Agreement Follow-Up

Hi Jim,

Thanks for sending us the HERA data last week. We are reviewing the large files and will get back to you with comments or questions after we cross-reference to the sample data that was provided from the Texas litigation (Exhibit examples from pervious emails).

As discussed last week, we simply were not in a position to sign and file K-1 partnership tax returns on behalf on HERA. We have made a clear record since the initial filings of the Delaware Case #1 in 2017 that the historical HERA filings were erroneous. In addition, I was not able to sign a 2021 return on behalf of HERA because I was not given the information or time necessary to evaluate such information to make such a filing. Accordingly, we approved of the good faith efforts by your team to develop what we agree was a reasonable solution to a situation not of our making. As I understand it, your team was relying on the advice of the Skyview Team (formerly Highland Capital's in-house tax experts led by Rick Swadley). Importantly, the Skyview Team includes many of the same people who were involved in the dubious allocations of expenses between Highland Capital and HCRE related to the SE Multifamily transaction (refer to yesterday's hearing and the comments about tax shields). I appreciate the efforts of you and your team but I feel it necessary to clarify that we did not direct the filing of the 2021 tax return nor did Highland employees serve as our agents for the preparation of the return. We simply approved the treatment of the Daugherty capital account pursuant to the recommendations for the overall return during this transition period.

Thanks again for your cooperation and we look forward to continuing our dialogue in that spirit.

Best,
-Pat

Patrick H Daugherty, Esq.
President and Chief Investment Officer

Glacier Lake Capital Advisors
(t) +1 214.932.9140 **(m)** +1 972.679.7487
(e) pdaugherty@glacierlakecap.com

From: James Seery <jpseeryjr@gmail.com>
Sent: Wednesday, October 19, 2022 12:23 PM
To: Patrick Daugherty <pdaugherty@glacierlakecap.com>
Cc: David Klos <dklos@highlandcapital.com>; Thomas Surgent <tsurgent@highlandcapital.com>
Subject: Daugherty Settlement Agreement Follow-Up

Pat,

To follow-up on your recent request for additional information pertaining to the HERA/ERA entities, members of the Highland team have worked to gather further documentation for you. We previously provided corporate documents to you as well as the Quickbooks accounting file to your accountants using their file sharing system.

If acceptable to you, we propose to deliver this new large document delivery (400+ files) via DSI's Sharefile system. Use is straight forward and allows you to download all of the files in an orderly manner. Otherwise, please let me know if there is a different way you would prefer to receive these additional electronic files.

Under our settlement agreement, HCMLP agreed to "transfer its interests in HERA and ERA" to you, and that transfer "include[s] the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system." The transfers are without any liability or material cost to HCMLP. HCMLP also agreed to provide reasonable assistance to you in the preparation of HERA K-1s for 2021.

HCMLP previously made these entity and record transfers and provided books and records information through summarized financial statements and general ledger detail in excel spreadsheets, historical tax returns, governing documents, the raw Quickbooks file containing the historical accounting data, and a spreadsheet detailing the amounts charged by HCMLP to HERA down to the invoice level. HCMLP also prepared and signed the 2021 HERA tax returns with your (and your accountants) input and approval.

While we believe the information already provided satisfied HCMLP's undertakings under the settlement agreement, we nevertheless understand your request for additional HERA and ERA information and have been able to gather the further documentation broken down as follows (some of which may be duplicative to certain documents you've already received, but we are re-including regardless):

HERA

- Governing documents
- Amendments
- Assignments
- Correspondence
- Director resignations
- Expense allocations (resolutions + allocation agreement)

- Actual copies of invoices (~330+ individual invoices dating 364 different vendors or law firms tracked down and will be transmitted; <10% couldn't be located and are therefore not included)
- Other resolutions
- Transfer agreements

ERA

- Governing documents

There is less documentation regarding ERA because it was solely a management entity. It did not have any economic activity, did not generate financials, and was a disregarded entity for tax purposes.

At your request, we also included excel tracking spreadsheets summarizing the assets of HERA from 2009 to May 2012 as well as the individual unit holder's respective interests in HERA. This file was maintained by HCMLP and appears to be an HCMLP business record tracking "The Vessel" (as HERA was sometimes known) and the interests of HCMLP employees in The Vessel.

We have also included certain additional HERA records that we have found relating to HERA assets and distributions to vested HERA participants. These records include: (i) miscellaneous spreadsheets reflecting various items, including actual cash distributions to vested participants; (ii) Smith Barney statements reflecting cash of HERA and ownership of NHF; and (iii) RCP Statements reflecting HERA interests.

Upon transmission of the information described above, HCMLP will have satisfied all of its obligations under the settlement agreement, and our involvement in HERA/ERA (your entities) will be complete. Of course, to the extent one-off questions come up, you're always welcome to contact me. Best of luck with these entities.

And again, as requested above please let us know how you would like us to deliver these files.

Best. Jim

Jim Seery
631-804-2049
jpseeryjr@gmail.com

EXHIBIT 56

PDADV_010999-PDADV_011000

Department of the Treasury
Internal Revenue Service
Mail Stop 4420
Ogden, UT 84401

April 10, 2018

PATRICK H & KIMBERLY A DAUGHERTY
[redacted]

Taxpayer Identification Number: [redacted]
Partnership Name: Highland Capital Management LP
Tax Period(s): 2008

Dear Mr. and Mrs. Daugherty:

The partnership you have invested in, identified above, is subject to possible tax adjustments from a Tax Equity and Fiscal Responsibility Act (TEFRA) examination for the tax period(s) shown. Any tax adjustment resulting from this examination may result in a corresponding adjustment to your personal return as well.

We unfortunately have exhausted all efforts to find your amended tax return copies in our records; therefore, we are asking you to send us a copy of your amended tax return for 2008 that is under examination, so we can make any necessary adjustments accurately. Please include all schedules, documents and statements filed with your amended return.

The normal statute of limitations (to adjust a tax return) is three years from the due date of the return or three years from the date of the return's filing, whichever is later. The statute of limitations for a return from a taxpayer who is an investor in a TEFRA partnership under examination, however, does not expire until one year after the partnership's flow-through tax issue is resolved.

Please mail or fax your documentation to us within 30 days from this letter's date. Our Fax number is (855) 244-9676. Please include your phone number, convenient hours during which we may reach you, and a copy of this letter with your response. Please write "COPY DO NOT PROCESS" in red on the top of each return. If you no longer have tax return copies, please respond to us anyway so we may continue to process your account as quickly as possible.

PDADV_010999

Unless you send us your documentation, we will have to adjust your account using only the information we have available. Should we do this, you likely will receive a higher tax assessment than if you had sent us a copy of your return.

In most cases, you will not need to file an amended federal tax return for tax adjustments from a partnership return. We usually make the necessary adjustments to your personal tax account.

Please call Ms. Permar at (801) 620-2427 between the hours of 4 p.m. - 7 p.m. with questions you may have about this matter. This person is best qualified to answer any general questions you may have about this matter. If you prefer, you can call us also at the telephone number listed in your local telephone directory.

Please contact your Tax Matters Partner, who is responsible for providing investors with tax information about the partnership, if you have questions about specific tax matters involving the partnership.

We apologize for any inconvenience we may have caused you.

Sincerely,

Ms. Permar

Ms. Permar

Enclosures:
Copy of this letter
Envelope
Notice 609

Exhibit 57 Slipsheet

(Subject to Motion to Seal and Protective Order)

EXHIBIT 58

T.J. Liles-Tims

Partner, Financial Advisory
Forensics, Litigation & Valuation Services
“We are all ignorant; just about different things.” - Will Rogers
Featured

Contact

Office

Dallas, Texas
Oklahoma City, Oklahoma

Phone

405-608-8805 (OKC)
972-674-1863 (Dallas)

tj.liles-tims@weaver.com

LinkedIn

We're ready to help

Reach out to our team and we’ll start a conversation.

Connect with us

T.J. Liles-Tims, MBA, CVA, CFE, MAFF, has over 20 years of experience in business valuations, fraud examination and quantifying commercial damages. His work has primarily focused on valuation and commercial disputes in civil litigation, as well as valuation disputes related to gift and estate tax matters. T.J. has provided expert testimony in both federal and state courts as well as in arbitration proceedings.

T.J. is an instructor, contributor and author for the National Association of Certified Valuators and Analysts (NACVA) in the areas of business valuation, litigation consulting and financial forensics. His experience in financial forensics includes litigation, detection and quantification of various forms of financial fraud, divorce-related matters, embezzlement, criminal tax fraud and the quantification of commercial damages. He has also taught numerous continuing education classes in the areas of business valuations and financial forensics and has been an adjunct professor at Oklahoma City University in forensic economics and the University of Central Oklahoma in fraud examination.

T.J. is a certified fraud examiner (CFE), a certified valuation analyst (CVA) and a master analyst in financial forensics (MAFF). He earned a Masters of Business Administration and a Bachelor of Business Administration in finance from the University of Central Oklahoma.

Services

- Valuation Disputes
- Commercial Disputes
- Family Law

Exhibit
002043
Liles-Tims 3/23/2026 G.W.

- Estate and Gift Tax
- Corporate Forensic Accounting

Memberships & Affiliations

- Member, Association of Certified Fraud Examiners (ACFE)
- Member and Former Chair of Business Valuation Credentialing, National Association of Certified Valuators and Analysts (NACVA)

Education

- Masters of Business Administration, finance, University of Central Oklahoma
- Bachelor of Business Administration, finance, University of Central Oklahoma

Designations/Certifications

- Certified Valuation Analyst (CVA)
- Certified Fraud Examiner (CFE)
- Master Analyst in Financial Forensics (MAFF)

Additional Information

T.J. has testified in state and federal courts. He is an instructor, contributor and author for the National Association of Certified Valuators and Analysts (NACVA) in the areas of business valuation, litigation consulting, financial forensics and was awarded NACVA's "2020 Circle of Light Award," "2018/2019 Instructor of the Year" and former chair of NACVA's "Business Valuation Credentialing Board." He has taught numerous continuing education classes in the areas of business valuations and financial forensics. T. J. is an adjunct professor at Oklahoma City University in the field of forensic economics.

EXHIBIT 59

Expert Report of T.J. Liles-Tims

Highland Capital Management, LP v. Patrick Hagaman Daugherty; AdvAdv. Proc. 2525-03055-bwobwo

Prepared By: T.J. Liles-Tims and Gary McIntosh
February 13, 2026

weaver
Assurance · Tax · Advisory

Exhibit
002046 2
Liles-Tims 3/23/2026 G.W.

Contents

I. Introduction 3
II. Qualifications 3
III. Compensation 3
IV. Documents And Information Relied Upon 3
V. Background 4
VI. Opinions and Findings 7
VII. Conclusion 14
VIII. Appendices 15

I. Introduction

1. I am a Partner with Weaver and Tidwell, L.L.P. ("Weaver"). Weaver is a professional services firm devoted to Assurance, Tax and Advisory. The partners have been serving the corporate, legal and professional communities for over seventy years and regularly assist clients in pending litigation and disputes by providing valuation, consulting and expert witness services.

2. I have been retained by Gray Reed, L.L.P., as counsel for Patrick Hagaman Daugherty, to provide consulting and litigation support services in relation to matter styled *Highland Capital Management, LP v. Patrick Hagaman Daugherty*, Adv. Proc. 25-03055-bwo.

3. Certain aspects of our review are ongoing. The opinions expressed in this report are subject to amendment or supplementation as a result of developments prior to or at the time of trial including further discovery, findings of facts, additional analyses, or the testimony of other witnesses in deposition or at trial. This report is intended to be used solely in this litigation and should not be relied upon for any other purpose.

II. Qualifications

4. Our background, experience, and qualifications, including a list of all authored publications and previous testimony, are outlined in our Curriculum Vitae attached to this Report as **Appendix A**.

III. Compensation

5. Weaver is billing time for professional services in this matter at the rate of $595 per hour. Weaver will be compensated at the same hourly rate if I am asked to testify in deposition or during the final hearing. In addition, other professionals at our firm acting under our direct supervision have assisted on this matter. Our firm's fee is not contingent upon the outcome of this litigation or upon us reaching any particular conclusions or opinions.

IV. Documents And Information Relied Upon

6. In preparing this report, I have relied upon information from a variety of sources, each of which is of a type reasonably relied upon by experts in our field. The opinions and

conclusions contained in this report are based on our independent and objective review of documents and other information produced thus far by the parties, pleadings generated as part of this case, as well as independent research I have conducted. In developing this report, I have considered the documents and information listed in **Appendix B.** I may review additional information as it becomes available and reserve the right to supplement or amend this report based on this information as necessary. I have also relied upon our own professional judgment and expertise gathered in almost twenty years of consulting with businesses and individuals including the preparation and evaluation of damages claims in litigation matters.

V. Background

A. Parties

a. Highland Capital Management, L.P.

7. Highland Capital Management, L.P. ("Highland") is the reorganized debtor in a Chapter 11 bankruptcy case and the plaintiff in the related adversary proceeding, where it seeks relief concerning the allowance and treatment of a filed claim.

b. Patrick Hagaman Daugherty

8. Patrick Hagaman Daugherty ("Mr. Daugherty") is a former senior employee and profits-interest partner (via a profits interest holder) of Highland, who filed a claim asserting, among other things, a contingent and unliquidated obligation related to potential IRS action concerning a prior tax refund.

B. Timeline of Events

9. On or around February 27, 2009, Highland provided Mr. Daugherty with the Comprehensive Compensation and Benefits Statement for calendar year 2008 (the "2009 Statement"), which included an estimated 2008 tax refund of $1,475,816.[1]

10. On or around October 31, 2011, Mr. Daugherty terminated his employment with Highland.[2]

---

[1] PDADV_010520.

[2] Based on conversations with Mr. Daugherty.

11. On or around December 8, 2017, Internal Revenue Service ("IRS") field examiners concluded an audit of Highland's 2008 partnership tax return (the "IRS Audit") and issued a summary report proposing adjustments ("IRS Proposed Adjustments").[3]

12. On or around February 3, 2018, Highland sent Mr. Daugherty a letter enclosing IRS Forms 886-Z and 870-PT, confirming the audit's completion and scheduling a March 2, 2018 closing conference.[4]

13. On or around July 3, 2018, Highland notified Mr. Daugherty that a 60-Day Letter had been issued and that Highland would timely appeal the proposed adjustments to the IRS Independent Office of Appeals ("IRS Office of Appeals").[5]

14. On or around October 16, 2019, Highland filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, thereby commencing its bankruptcy case.[6]

15. On or around December 9, 2019, Highland informed Mr. Daugherty that the matter had been transferred from the Tax Equity and Fiscal Responsibility Act ("TEFRA") unit to the IRS Office of Appeals, which had no stated timeline for review.[7]

16. On or around April 1, 2020, Mr. Daugherty filed Proof of Claim No. 67.[8]

17. On or around April 6, 2020, Mr. Daugherty filed Proof of Claim No. 77, superseding Claim No. 67 in its entirety.[9]

18. On or around November 17, 2020, during bankruptcy proceedings, it was noted that the IRS Audit remained ongoing and could result in a clawback.[10]

19. On or around December 23, 2020, Mr. Daugherty filed Proof of Claim No. 205, superseding Claim No. 77 in its entirety.[11]

---

3 PDADV_004856.
4 Daugherty ROGs00003740.
5 PDADV_004687.
6 PDADV_010182.
7 PDADV_004856.
8 PDADV_010185.
9 PDADV_010185.
10 2020.11.18 – Hearing Transcript (hearing of November 17, 2020).
11 PDADV_010186.

20. On or around February 22, 2021, the Court entered an order confirming Highland's Fifth Amended Plan of Reorganization.[12]

21. On or around July 13, 2021, Strand Advisors, Inc, the Tax Matters Partner for Highland Capital Management, L.P. at the time, notified Mr. Daugherty that After the IRS issued its audit report in May 2018, Highland protested and appealed each of the IRS's proposed adjustments to the IRS Appeals Office. It further informed Mr. Daugherty that after delays in IRS Exam's processing of the appeal and further delays because of COVID-19 and scheduling conflicts, the IRS Appeals Office had scheduled an Appeals hearing for September 14-16, 2021, 10:00 AM CDT.[13]

22. On or around November 21, 2021, Highland and Mr. Daughtery executed a Settlement Agreement (the "Settlement Agreement").[14]

23. On or around March 8, 2022, the Court entered the Settlement Agreement, resolving all of Claim No. 205 except Mr. Daugherty's remaining claim relating to the IRS Audit.[15]

24. On or around May 31, 2024, Highland's Tax Matters Partner submitted a counteroffer to IRS Office of Appeals as part of mediation procedures, confirming continued active dispute of the IRS Audit.[16]

25. On or around June 26, 2024, Highland's Tax Matters Partner met with the IRS Office of Appeals team to further discuss settlement positions and narrow outstanding issues.[17]

26. On or around February 28, 2025, Highland's Tax Matter Partner's counsel submitted a revised settlement counteroffer to IRS Office of Appeals and renewed its request for post-Appeals mediation, confirming that no final IRS determination had yet been made.[18]

27. On or around May 2, 2025, Highland filed the present Adversary Complaint seeking (1) disallowance of the remainder of Claim No. 205, (2) estimation of any portion of the

---

12 PDADV_010182.

13 PDADV_004971.

14 Settlement Agreement, by and between Highland Capital Management, L.P. and Patrick Hagaman Daugherty, dated November 21, 2021

15 Highland Capital Management, LP Complaint, filed May 2, 2025.

16 HUNTON_001107.

17 HUNTON_001107.

18 HUNTON_001105–HUNTON_001108

remainder of Claim No. 205, or (3) subordination of any allowed portion of the remainder of Claim No. 205.[19]

VI. Opinions and Findings

A. Opinion No. 1

28. Courts and professional standards require economic damage analysis must be presented with reasonable certainty. As such, an analysis must rely on verifiable data and established facts, ensuring that the testimony meets accepted standards for reliability.

a. Basis for Opinion No. 1

29. An expert witness calculating economic damages must base any opinion on sufficient, reliable, and verifiable inputs. This requirement is grounded in Federal Rule of Evidence ("FRE") 702, which mandates expert testimony be "based on sufficient facts or data" and reflect a "reliable application of the principles and methods to the facts of the case."[20] Courts have excluded expert opinions when the underlying assumptions or data are incomplete, untested, speculative, or otherwise unreliable.[21]

30. Authoritative guidance reinforces the same principle. Damages must be proven with reasonable certainty, meaning the calculation must have a "*sufficient foundation exists to support a rational conclusion.*"[22],[23] Courts emphasize that, "*damages calculation must be 'capable of measurement based upon reliable factors without undue speculation'*[24]."[25]

31. To further illustrate the necessity of experts relying on reasonable inputs *Compania Embotelladora Del Pacifico, S.A. v. Pepsi Cola Co.*, states:

> *"…an expert's testimony must be excluded if it is 'speculative or conjectural' or if it is 'based on assumptions that are so unrealistic and contradictory' that the testimony*

---

19 Highland Capital Management, LP Complaint, filed May 2, 2025.

20 Federal Rule of Evidence 702.

21 *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).

22 *Albert v. Warner-Lambert Co.*, 234 F.Supp.2d 101, 103 (D. Mass. 2002). See also *W.W. Gay Mechanical Contractor, Inc. v. Wharfside Two, Ltd.*, 545 So.2d 1348, 1351 (Fla. 1989) .

23 Fannon, Nancy J. and Dunitz, Jonathan M. The Comprehensive Guide to Economic Damages. Volume 1. Business Valuation Resources, LLC. p. 232.

24 See, e.g. *Ashland Management Inc. v. Janien*, 82 N.Y.2d, 103 (1993).

25 Fannon, p. 232.

amounts, in essence, to an 'apples and oranges comparison.' Similarly, 'when an expert opinion is based on data, a methodology, or studies that are simply inadequate to support the conclusions reached, Daubert and Rule 702 mandate the exclusion of that unreliable opinion testimony.' Moreover, an expert's analysis must be 'reliable at every step'…"[26]

32. Furthermore, courts require experts to evaluate and test inputs, particularly material assumptions, that drive their damage calculations. Reliance on inputs that are untested, contradictory, or incomplete may result in an exclusion under the Daubert precedent.[27] The NACVA's professional standards also require experts to obtain "sufficient relevant data" and to confirm the reliability of assumptions and inputs used in any damages model.[28]

33. It is our understanding at the date of this Report, the outcome of the IRS Audit is still pending. Given that the IRS Audit has not been resolved (i.e., that there has not been a final determination), the core inputs needed for a reasonable and reliable damages calculation do not yet exist. Any model attempting to calculate damages with the current information would be forced to rely on assumed and unknown variables, in contrast with expert witness guidelines outlined in FRE 702.

B. Opinion No. 2

34. The IRS Audit has not been finalized and the timeline for conclusion is unknown. The sequence of a typical IRS audit under TEFRA is outlined below. Milestones highlighted in green have been completed, while steps in blue indicate outstanding stages of the process:[29]

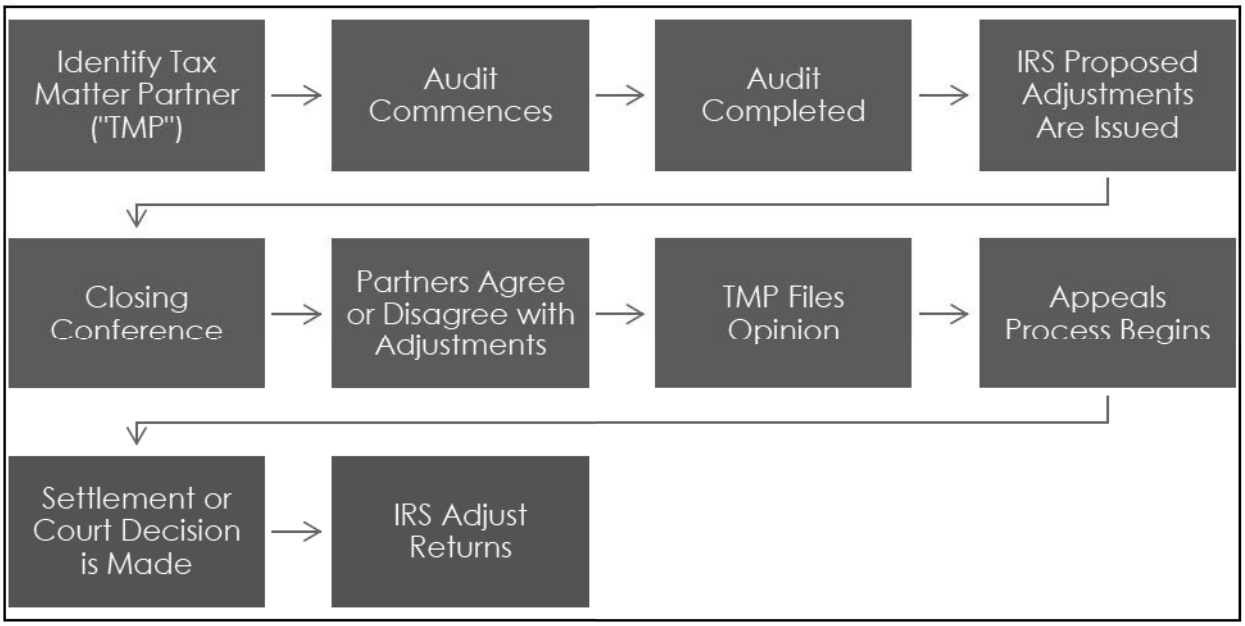
---

[26] *Compania Embotelladora del Pacífico, S.A. v. Pepsi Cola Co.*, No. 00 Civ. 7677 (JSR) (S.D.N.Y. Sept. 4, 2009).

[27] *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).

[28] National Association of Certified Valuators and Analysts (NACVA), Professional Standards, Rev. Nov. 22, 2024

[29] Internal Revenue Service, Internal Revenue Manual (IRM) 4.31.2, TEFRA Examinations – Field Office Procedures, Part 4, Chapter 31, Section 2 (Apr. 22, 2025).



35. It is our understanding the IRS Audit has not been finalized, and the timeline of conclusion is unknown. The chart above outlines no final agreement, or settlement has been reached with the IRS. Therefore, since the IRS Audit is unresolved and there is no expected completion date, it would be not be reasonable or reliable for a financial expert to assess damages, at this point.

b. Basis for Opinion No. 2

36. As of the date of this Report, the IRS Audit has not yet resulted in a final determination. In December 2017, IRS field examiners completed their examination of the 2008 return and issued a summary report proposing adjustments.[30]

37. A letter dated February 3, 2018 from Highland's Director of Human Resources, Brian Collins ("Mr. Collins"), states, "[Highland] scheduled a closing conference on March 2, 2018. You do not need to attend the closing conference…Highland will handle the closing conference…and appeal the proposed adjustment to the IRS Appeals Office after the conference."[31] It was clear Highland intended to appeal the IRS Proposed Adjustments

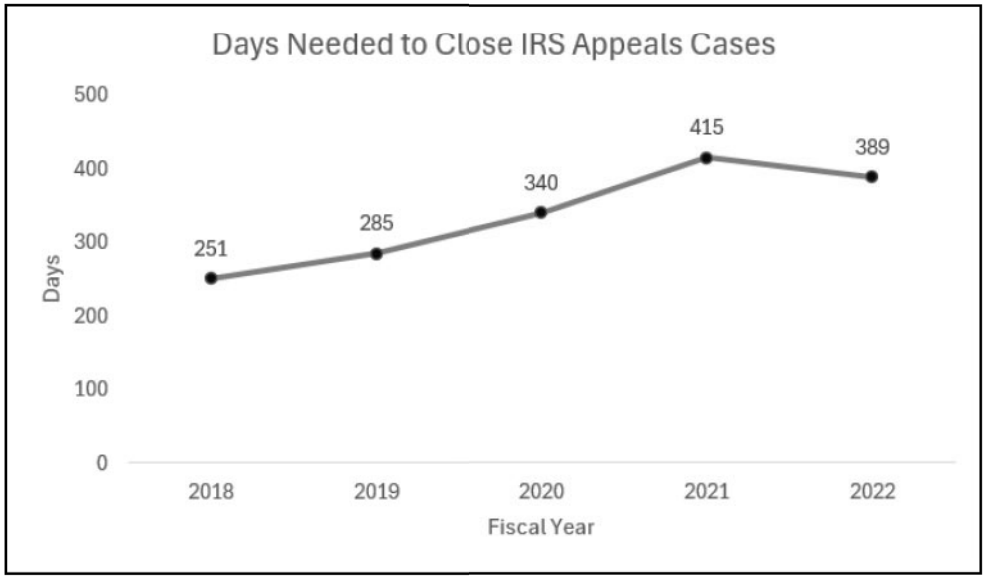
[30] Based on IRS correspondence in a December 9, 2019, email from Highland's Director of Human Resources, Brian Collins, which states that "By letter dated December 8, 2017, Exam indicated that they had concluded their audit and provided a summary report proposing certain adjustments." [PDADV_004856]

[31] Daugherty_ROGs00003740.

soon after receiving the results, which would indicate reliance on the December 2017 results would not be reasonable or reliable.

38. Almost two years later, in an apparent update email to Mr. Daughtery on December 9, 2019, Mr. Collins states, "the matter recently was transferred to the IRS Office of Appeals."[32] Approximately two years apart, Mr. Collins indicates the appeals process was "recently" started, while still maintaining the position the IRS Proposed Adjustments are not reliable. Later in the letter, Mr. Collins further cast doubt on the IRS Proposed Adjustments when he states, "Highland will continue to defend against the proposed adjustments by Exam and prosecute the appeal of those adjustments in the Appeals Office."[33] The sentiment expressed from a Highland representative, until this point, has been the results of the IRS Audit are not final and are, therefore, not reliable.

39. According to Government Accountability Office ("GAO"), the average time to close an appeal with the IRS Office of Appeals in 2019 was 282 days, trending upward from 251 the previous year.[34] The number of days to resolve a case with the IRS Office of Appeals would continue to rise in the following years as seen in the chart below.[35]



[32] PDADV_004856.

[33] PDADV_004856.

[34] U.S. Government Accountability Office, Tax Enforcement: IRS Could Better Manage Alternative Dispute Resolution Programs to Maximize Benefits, GAO-23-105552 (May 2023, rev. June 7, 2023).

[35] GAO-23-105552.

40. Although, the IRS Office of Appeals had received the case by December 2019, no timetable existed for when the IRS Office of Appeals would conduct its review or issue any decision. Mr. Collins emphasized this point when states, "we have no further information regarding when the Appeals Office will review Highland's appeal or when a resolution may be made."[36] In connection, this information shows that while the IRS examination was completed in 2017 and a summary report was issued, it did not constitute a final determination of tax liability as Highland has not exhausted its efforts in an appeal.

41. Highland's Tax Partner As outlined above, Highland continues to dispute the proposed adjustments before the IRS Office of Appeals. The most recent communication dated February 28, 2025, indicates Highland's Tax Partner submitted a revised settlement counteroffer and again requested post-Appeals mediation.[37]

42. These actions confirm that, at least by February 28, 2025, no final partnership-level adjustment had been reached and the Appeals review was still ongoing. As of the date of this report, Mr. Daugherty has received no notice settlement. As such, it is clear Highland's Tax Partner is actively negotiating with the IRS on settlement offers.

43. With no expected timeline for completion and the ongoing dispute of the IRS Audit, it would not be reasonable or reliable for a financial expert to opine on damages. As such, it is our opinion a damage calculation cannot be made until Highland's Tax Matters Partner resolves the IRS Audit.

C. Opinion No. 3

44. If or when Highland's Tax Partner reaches a final agreement with the IRS, the tax impact to Mr. Daugherty should be calculated using the following process:

Step 0: Identify adjustment type (income, deductions, etc.);
Step 1: Total partnership adjustment for that item (IRS proposed change);
Step 2: Partner allocation % for that item (from K-1 / agreement);
Step 3: Partner's share = (Step 2) × (Step 3);
Step 4: Calculate tax effect = (Step 4) × partner's marginal rate;

---

36 PDADV_004856.

37 HUNTON_001105- HUNTON _001108.

Step 5: Calculate partnership basis impact;[38]

Step 6: Assess if there is any underpayment. If no, process ends here.

Step 7: If necessary, assess penalties;[39]

Step 8: Compute interest (Interest = Underpayment x Rate x Time Outstanding);[40]

Step 9: Calculate total partner-level exposure (Tax + Penalties + Interest).

c. Basis for Opinion No. 3

45. If Highland's Tax Partner reaches a final partnership-level agreement with the IRS, the resulting tax impact to Mr. Daugherty must be computed at the partner level. The partnership-level adjustment itself is the first step; the ultimate economic consequence to any individual partner necessarily depends on the partner's allocable share of the adjustment, federal and state tax rates, basis consequences, and any penalties or interest that may be imposed.

---

38 26 C.F.R. § 1.705-1, *Determination of basis of partner's interest* (as amended)

39 26 U.S.C. § 6651; 26 U.S.C. § 6662.

40 26 U.S.C. § 6601; 26 U.S.C. § 6621.

46. The chart below illustrates the steps that occur ***after*** the IRS's determination becomes final.



47. However, this process cannot begin until the IRS issues a final determination. As shown in the record, the IRS examination concluded in 2017 with "proposed" adjustments, not final ones, and Highland formally disagreed and appealed those adjustments. Subsequent correspondence confirms:[41]

- Highland did **not** accept the IRS Proposed Adjustments;
- Highland intended to and did appeal;
- The case entered the IRS Office of Appeals, where no timeline existed for resolution; and
- As of 2025, Highland continued to negotiate, submit revised counter offers, and request post-Appeals mediation.

48. Because no final partnership-level adjustment exists, any damage calculation today would not be reasonable or reliable. Once the IRS issues a final determination, however, the calculation of partner-level impact should follow the nine steps outlined above.

VII. Conclusion

49. As discussed throughout this report, due to Highland ongoing IRS Audit it would not be reasonable or reliable to opine on any economic damages to Mr. Daugherty. Our analysis, conclusions and opinions are based on the data and information that was available as of the date of this report. We reserve the right to revise the opinions, assumptions and calculations set forth herein upon consideration of the reports of any other testifying expert, the testimony of or new documents produced by any witness, any information or documents that any testifying expert produces or upon which he or she relies, and other material that may be presented to me prior to or at the time of trial that we may properly consider under the governing rules or guidelines set by the Court.

Dated: February 13, 2026

By: T.J. Liles-Tims

By: Gary McIntosh CPA, CFF
Gary McIntosh

[41] Daugherty ROGs00003740; PDADV_004856; HUNTON_001105–HUNTON_001108.

VIII. Appendices

T.J. Liles-Tims, MBA, CVA, CFE, MAFF

Partner – Forensics, Litigation, and Valuation Services

T. J. Liles-Tims is a Partner in Weaver's Forensics, Litigation, and Valuation Services practice and serves as the Firm's Leader for Valuation Disputes and Family Law service lines. His expertise lies in business valuations, fraud examination, and quantification of commercial damages. T. J. has more than 20 years of experience in business valuations, fraud examination, and the quantification of commercial and personal damages. T. J. regularly conducts business valuations for a variety of industries and for matters involving litigation, estate and gift tax, and ownership transfers. Experience in financial forensics includes litigation, detection and quantification of various forms of financial fraud, divorce-related matters, embezzlement, criminal tax fraud, and the quantification of commercial damages. Testimony experience includes cases in federal and state court, as well as arbitrations.

T. J. previously served as a Co-Founding Partner at BVFF Partners, LLC which was a business valuation and financial forensics advisory firm. Prior to BVFF Partners, T. J. managed his own firm LilesTims, Inc. where he also conducted business valuations and financial forensics. T. J. received a B.B.A and an M.B.A in Finance from the University of Central Oklahoma, where his field of graduate study was finance. Additionally, he has earned his designation as a Certified Valuation Analyst (CVA), Certified Fraud Examiner (CFE), and Master Analyst in Financial Forensics (MAFF). He is an Instructor, Contributor, and Author for the National Association of Certified Valuators and Analysts (NACVA) in the areas of business valuation, litigation consulting, and financial forensics and was awarded NACVA's "2020 Circle of Light Award," "2018/2019 Instructor of the Year," and former Chair of NACVA's "Business Valuation Credentialing Board," and currently serves as Chair for the NACVA "Leadership Initiatives Board." He has taught numerous continuing education classes in the areas of business valuations and financial forensics.

Professional History

October 2023 to Present: Partner, Weaver & Tidwell, L.L.P.

- Public accounting firm providing assurance, tax, and advisory services.

July 2015 to October 2023: Co-Founding Partner, BVFF Partners, L.L.C.

- Acquired by Weaver & Tidwell, L.L.P. as of October 2023
- Professional services firm specializing in valuation, dispute advisory and forensics.

August 2007 to October 2023: President, LilesTims, Inc.

- Owner of BVFF Partners, LLC.
- Professional services firm specializing in valuation, dispute advisory and forensics.

Education and Certifications

- Certified Fraud Examiner (CFE) – Association of Certified Fraud Examiners
- Certified Valuation Analyst (CVA) – National Association of Certified Valuators and Analysts
- Master Analyst in Financial Forensics (MAFF)
- Master (M.B.A.) and Bachelor (B.B.A.) of Business Administration in finance from the University of Central Oklahoma

Representative Presentations and Publications

- "NACVA: Foundations of Financial Forensics" – (Co-Author) Training curriculum for NACVA's Master Analyst in Financial Forensics (MAFF) designation.

- "NACVA: Special Purpose Valuations – Mergers and Acquisitions, Forensic Accounting, Litigation" – (Co-Author) Training materials for Certified Valuation Analyst training center and exam.
- "NACVA & IBA: Business Valuation Certification and Training Center On-Demand Video Series" – (Co-Author)

Professional Seminars Taught

- *"M&A: Top Disputes and When They Arise."* National Business Institute. August 2024
- *"Understanding Market Forces in Value Appreciation for Marital Dissolution."* Oklahoma County Bar Association. March 2024.
- *"Building the Clock v. Telling the Time: Drafting an Effective Litigation Report."* National Association of Certified Valuators and Analysts Financial Forensics 2022 Super Conference. December 2022.
- *"A Sock & A Sock or A Sock & A Shoe? How Not to be Hidebound in Valuation and Financial Forensics."* National Association of Certified Valuators and Analysts Financial Forensics 2022 Super Conference. December 2022.
- *"Valuation and Vows: We Still Have to Play by the Rules."* American Academy of Matrimonial Lawyers – Oklahoma Chapter. October 21, 2022. (Also authored a white paper titled the same)
- *"Valuing Assets in Divorce and Presentation to the Court."* Oklahoma Bar Association – Family Law Section. October 22, 2021.
- *"Beyond the Numbers: Using Psychology Hacks to Influence Outcomes."* National Association Certified Valuators and Analysts' Financial Forensics 2020 Super Conference. November 17, 2020.
- *"Foundations of Financial Forensics"* Five-day certification training for Master Analyst in Financial Forensics. Taught multiple times annually since 2016
- *"Commercial Damages and Lost Profits: An Overview for Attorneys & Judges" An* OBA/CLE Webcast, September 2016
- *"Business Valuation: What an Attorney Needs to Know"* National Business Institute CLE, July 2016
- *"Commercial Damages and Lost Profits"* Master Analyst in Financial Forensics certification training for the National Association of Certified Valuators and Analysts. October 2014; February 2015; October 2015; May 2016
- *"Art with Numbers: Appealing to the Triers of Fact"* National Association of Certified Valuators and Analysts' Financial Forensics Conference. October 20, 2015
- *"Business Valuations: Reports, Standards, and Analysis"* Risk Management Association – Oklahoma Chapter. February 26, 2015
- *"The Expert's Role in Financial Forensics: Real-World Guidance for Managing the Engagement"* continuing education presentation for the National Association of Certified Valuators and Analysts. June 25, 2015.
- *"Navigating Expert Deposition and Trial Testimony"* continuing education presentation for the National Association of Certified Valuators and Analysts. June 26, 2015.
- *"Business Valuation for Attorneys"* continuing education presentation for the Oklahoma Bar Association, November 20-21, 2014.
- *"Valuing Family Limited Partnerships"* continuing education and workshop for the National Association of Certified Valuators and Analysts. August 12th & 13th, 2014
- *"Business Valuations in Litigation Matters"* continuing education presentation for the Oklahoma Bar Association. May 28, 2014.
- *"Examining the Business Valuation Report"* continuing education presentation for the Oklahoma Bar Association. March 27, 2013.

Expert Report / Testimony

Fix My Phones Plus Franchise, LLC v. Fix My Phone 63rd & May, LLC, 5924, LLC, and Damon Wooten
American Arbitration Association, Case No. 01-23-0003-9884 – Deposition Testimony on June 16, 2025
Provided testimony as to the Respondents' lost profits and lost business value with respect to a retail cellular repair service franchise.

Drannon Moss, Atlas Termite and Pest Controls, Inc, and Atlas Termite and Pest Controls, LLC v. Jimmie Moss and Jacquelyn Sue Moss
Cleveland County, Oklahoma Case No. CJ-2022-730 – Deposition Testimony on April 4, 2025 and Trial Testimony, April 9, 2025
Provided testimony as to the fair market value of a termite and pest control company. Additionally, provided testimony as to the misappropriation of company assets and the additional benefits paid to the Defendant above and beyond those paid to the Plaintiff.

Rebecca Ellithorp v. Brian Ellithorp
Oklahoma County, Oklahoma Case No. FD-2023-1057 – Deposition Testimony on April 2, 2025 and Trial Testimony, April 7, 2025
Provided testimony as to the fair market value of a manufacturer of gas separators within the oil and gas industry, as well as an oil and gas consulting firm.

Proposed Rules Change - Treasury Department Circular No. 230
Internal Revenue Service, Washington D.C. Testimony, March 6, 2025
Provided testimony to IRS and Department of Treasury Senior Counsel, on behalf of the NACVA Leadership Initiatives Board and the collective NACVA membership, in regards to the proposed changes to Circular 230 as it relates to business valuation/appraisers and the regulations governing practice before the Internal Revenue Service.

Jacob Brown v. Anna Connor Brown
Oklahoma County, Oklahoma Case No. FD-2023-1769. Testimony, December 6, 2024.
Provided expert testimony as to the fair market value of a veterinarian clinic.

Derek Allen Wilson v. Stevie Lynell Wilson
Cleveland County, Oklahoma Case No. FD-2023-53. Testimony, July 10, 2024.
Provided expert testimony as to the fair market value of a commercial real estate agency.

Maria Lopez-Almarez, et. al. v. Evelyn Lopez, et. al..
U. S District Court: Western District of Oklahoma. Case No. CIV-22-501-HE. Deposition, April 16, 2024.
Provided rebuttal testimony to the Plaintiff's expert report (business valuation) for four (4) different Mexican food restaurants. Additionally, provided testimony regarding the Plaintiff's expert reports claims to economic damages.

Mira Suvedi v. Kiriti Suvedi.
Oklahoma County, Oklahoma Case No. FD-2021-3174. Testimony, March 25, 2024.
Provided expert testimony as to the fair market value of seven (7) different businesses consisting of construction, land development, residential duplexes, fast food franchises, and trading post/C-Store.

Lacy J. Greene v. Charles Greene.
Logan County, Oklahoma Case No. FD-2022-210. Testimony, February 20, 2024.
Provided expert testimony as to the marital versus separate property of Petitioner's retirement funds, as well as restricted and unrestricted stock options.

Jeffrey R. Hartwig v. Rebecca A. Hartwig.
Oklahoma County, Oklahoma Case No. FD-2023-254. Testimony, January 17 & 18, 2024.
Provided expert testimony to the fair market value of Wife's Staffing Agency and Husband's Landman business. Additionally, provided opinions regarding *Thielenhaus* calculations and personal goodwill issues for both businesses.

Keating Poteet v. Vicki Poteet.
Woodward County, Oklahoma Case No. FD-2021-00082. Deposition Testimony, December 15, 2023.
Provided expert testimony as to asset tracing for funds brought into the marriage versus those collected during the marriage. Also, provided opinions regarding *Thielenhaus* calculations.

T. Sage v. K. Sage.
Tulsa County, Oklahoma Case No. FD-2020-1720. Testimony, November 6 & 9, 2023.
Provided expert testimony as to the fair market value of the Respondent's multiple businesses including a lawn and landscape company, pest control company, and recreational land holding company.

Amy Lorraine Chen v. Ting Kon Chen.
Oklahoma County, Oklahoma Case No. FD-2019-3403. Testimony, October 27, 2023.
Provided testimony as to the fair market value of a medical anesthesiology practice and additional testimony regarding the 'disposable' income of the parties for purposes of the Court's determination of alimony.

Heidi Vaughn v. Clay Vaughn.
McClain County, Oklahoma Case No. FD-2022-11. Testimony, July 24, 2023.
Provided testimony regarding the fair market value of the Respondent's carpentry trim business and rebuttal testimony to the Petitioner's experts business valuation "review" and its lack of adherence to professional standards.

Brian K. Cook v. Sarah E. Cook.
Lincoln County, Oklahoma Case No. FD-2020-140. Testimony, April 28, 2023.
Provided testimony as to the appreciation in fair market value of the Petitioner's trucking company and the inability to establish a starting fair market value due to the lack of documentation and data available.

Michael Lyles v. Darlene Lyles.
Oklahoma County, Oklahoma Case No. FD-2020-3025. Testimony, April 24, 2023.
Provided testimony regarding the appreciation in the fair market value of the Petitioner's Section 8(a) information technology company from date of marriage to the date of filing the petition.

Colette Lynn Lesh v. Joel Alvin Lesh.
Love County, Oklahoma Case No. FD-2022-00009. Testimony, February 28, 2023.
Provided testimony as to the accounting of the Petitioner's horse training and breeding facility, as well as the Respondent's horse training facility. Also, provided testimony, based on the Court's questions, as to the preliminary fair market value of the businesses held by the marital estate.

Stacie Nichole Currie v. Jeffrey Don Currie.
Flathead County, Montana Cause No. DR-22-63(D). Testimony, January 12, 2023.
Provided testimony regarding the fair market value of the Respondent's insurance agency and bail bonds company.

Gina Leigh Heald v. Ronald Erick Heald.
Oklahoma County, Oklahoma Case No. FD-2019-2089. Testimony, April 13, 2022; April 14, 2022; April 19, 2022; and April 26, 2022.
Provided testimony as to the fair market value of the Respondent's metal fabrication business, as well as the Respondent's tornado shelter manufacturing business.

Brenda Sasnett Cummings v. Luther Gregory Cummings.
Oklahoma County, Oklahoma Case No. FD-2009-855. Testimony, November 5, 2021.
Provided testimony of the present value of the Respondent's pension benefits and rebuttal testimony as to the appropriate interest factor related to the pension benefits.

Mark Sheets v. Sarah Sheets.
Oklahoma County, Oklahoma Case No. FD-2018-3112. Testimony, December 9, 2020.
Provided testimony of the fair market value of an ownership interest in the Claimant's accounting firm and the impact of a buy-sell agreement on the firm's fair market value.

Amy L. Darter v. James M. Darter.
Oklahoma County, Oklahoma Case No. FD-2018-3642. Testimony, September 28 & 29, 2020
Provided testimony regarding the fair market value, primarily, of the Petitioner's medical practice and associated personal goodwill and the Respondent's legal and financial protection business for firearm owners. The testimony included a fair market value opinion of a real estate holding company, as well.

Citizens State Bank and American Southwest Mortgage Funding Corp v. Heard, McElroy & Vestal.
United States District Court for the Western District of Oklahoma, Case No. CIV-2018-360-G. Deposition, July 15, 2020.
Provided deposition testimony regarding the commercial damages sustained by the Plaintiff due to the alleged improper audits performed by the Defendant.

Randi Michele Wilkins v. Jeremy Dale Wilkins.
Murray County, Oklahoma Case No. FD-2018-00032. Deposition, April 8, 2020.
Provided deposition testimony regarding the fair market value of the Respondent's lawn and landscaping business.

Clayton Bruner v. Hillery Bruner.
Custer County, Oklahoma Case No. FD-2019-00077. Testimony, March 4, 2020.
Provided testimony regarding the fair market value of the Claimant's law practice and the personal goodwill of the Claimant, as well as rebuttal testimony as to the available income of the marital estate for the Court's calculation of permanent alimony.

State of Oklahoma, et. al. v. Wildcat BDP, Inc., et. al.
Pottawatomie County, Oklahoma Case No. CJ-2015-124. Testimony, January 30, 2020.
Provided rebuttal testimony as to the fair market value of the Defendant's convenience store for purposes of eminent domain.

Paul Snowden, et. al. v. Stellar Construction, Inc., et. al.
Cleveland County, Oklahoma Case No. CJ-2016-255. Testimony, November 19, 2019. Deposition, January 14, 2019.
Provided trial and deposition testimony regarding a forensic accounting of the cost and billings of a new home construction, specifically, the alleged misrepresentation of the amounts reported to the Petitioner during, and throughout, the build.

Myers, et. al. v. Myers, et. al.
Oklahoma County, Oklahoma Case No. CJ-2015-189. Testimony, February 6, 2019, and Deposition, November 9, 2017.
Provided deposition and trial testimony regarding the alleged mismanagement of assets held in trust by the trustee and the trustee's advisors.

McKayla Leann Doty v. Patrick Cowan, et. al.
Beckham County Case No. CJ-2016-00028. Testimony, April 9, 2018
Provided testimony as to the proper documents needed to determine a trust accounting. More specifically, what documents and reports would be necessary to conduct a forensic accounting for purposes of determining the source and use of funds held in trust.

Carla Denita Nievar v. Steven Welsey Nievar.
Cleveland County Case No. FD-2017-884. Testimony, January 22 & 23, 2018
Provided testimony as to the Respondent's needs for temporary alimony and the profitability of the Respondent's start-up heating and air conditioning business. Additionally, provided an opinion of the fair market value of the heating and air conditioning business owned during the marriage.

John Cockerell, Jr. v. Howell Amirald Gee, IV, et. al.
Oklahoma County Case No. CJ-2017-4469. Testimony, August 21, 2017
Provided testimony on behalf of the Defendant for allegations of hiding assets. The analysis included a forensic accounting for the source of funds and, more specifically, the use of those funds.

Audrey Brown v. Steve Brown.
Cleveland County Case No. FD-2016-1154. Testimony, March 15, 2018, and Deposition, July 31, 2017
Provided both trial and deposition testimony as to the fair market value of the Respondent's engineering company, as well as the value of the patents owned by the Respondent.

Jana D. Eldridge v. Kent Eldridge.
Oklahoma County Case No. FD-2016-420. Testimony, August 23, 2016
Provided testimony based on a needs analysis of the Petitioner for purposes of the Court determining alimony. Also provided consulting opinions to Petitioner's counsel as to the fair market value of the Respondent's law practice, as well as Respondent's personal goodwill.

Scott D. Sachs v. Chesapeake Energy Corporation.
American Arbitration Association. Case No. 01-15-0002-8356. Testimony, October 26, 2015
Provided deposition testimony regarding the amount of employment benefits due to the Claimant. The employment benefits included wages, stock options, and other ancillary benefits.

Bryan Butler v. Tanya L. O'Connell and O'Connell's Roofing, LLC.
Cleveland County Docket No. CJ-2011-961. Testimony, June 29, 2015
Provided testimony on the fair market value of the Respondent's roofing company.

United States of America v. Teddy Dryden Mitchell.
U.S. District Court: Western District of Oklahoma, Case No. CR – 12-00216-R. Testimony, January 17, 2014.
Provided testimony regarding the allegations of the Defendant's lack of reporting income in certain businesses of the Defendant. This testimony included a forensic accounting to trace funds from the sources to its use.

Glynis Suzanne Andrews Koester v. Glenn Alan Koester.
Oklahoma County Docket No. FD-2010-1523. Testimony, June 18, 2012
Provided testimony regarding the fair market value of the Respondent's dermatology practice and offered additional testimony as to the personal goodwill of the Respondent.

Lawanda Padgett v. Capital West Securities, Inc.
FINRA Arbitration, File No. 09-02953. Testimony, February 2, 2011.
Provided testimony to opine on the losses sustained in a stock portfolio. The analysis included calculating the net out of pocket losses and the performance of a stock portfolio invested in a model portfolio.

Gary D McIntosh, CPA, CFF

Managing Director, Forensics and Litigation Services

Retired Partner, Of Counsel –Tax Services

Gary D McIntosh, CPA, CFF, is a Managing Director in Weaver's Forensics and Litigation Services practice. Gary has 54 plus years of public accounting experience, and has been assisting clients with the financial aspects of disputes, investigations and analysis, and turnaround and restructuring services as a part of his practice for over 40 years. He has served as an expert witness in state and federal court, including bankruptcy court, as well as in arbitration. Gary's experience includes developing and analyzing damage claims, conducting fraud and financial forensics investigations, assisting businesses in the analysis of governance, restructure, and turnaround needs, valuing business and intangible assets, evaluating complex data sets resulting from allegations of breach of contract, financial misrepresentation, fraud, director, officer and employee misconduct, misuse of corporate or partnership funds, breach of fiduciary duty, compliance with partnership agreements or corporate bylaws and operating agreements, assessing operational deficiencies and ways to efficiently operate the business in times of economic downturns, or business distress, family law division of property, tracing of assets, community and separate property including claims for reimbursement, including the tax impact of transactions in various family law, partnership, corporate and individual settings, estate, gift and probate disputes, and other related disputes. His clients have included law firms, general counsels, Boards of Directors, stockholders, and partners spanning construction, real estate investment and development, high-tech, restaurant and hospitality, manufacturing and distribution, service industry, oil and gas operators, energy, mortgage lending, title companies, professional services, automobile dealerships, estates and trusts, and related industries, among others.

Gary previously served as a Partner in the firm, prior to the required retirement date, as well as leading his own firm and two other large local/regional firms in the Austin area during his career. He graduated from the University of Texas at Austin in 1970 with a Bachelor of Business Administration degree in Accounting, and became a CPA in February 1972. He became certified in Financial Forensics by the American Institute of Certified Public Accountants (AICPA) in 2009, the first year such a certification became recognized. He is past Chairman of the Texas Society of Certified Public Accountants, past member of the 23 member Board of Directors of the AICPA (now over 400,000 members) for 3 years, was a member of the Uniform Accountancy Act Committee of the AICPA and NASBA for several years including its Co-Chair for 2 years, and has served on numerous committees of the Texas State Board of Accountancy (TSBPA), including as a member or advisory member of the TSBPA Rules Committee for over 25 years.

See attached detail resume for professional work history and community service.

General Commercial Contract Disputes, Family Law Disputes and Probate Disputes

Embezzlement of Assets Using False Contractual Documentation and Fictitious Invoices

Engaged by plaintiff counsel for forensics examination and report regarding $8.5 million embezzlement scheme for factored invoices, using false documentation and fictitious invoices; obtained settlement with various parties and conviction of financial officer who masterminded the scheme.

Probate Dispute Among Co-Executors of Estate With Assets in Multiple States

Engaged by counsel for one Co-Executor to determine validity of tax filings in estate and negotiate settlement of issues for asset distributions

Partnership Contract Dispute-Real Estate Entities

Real estate partnership disputes-Engaged by counsel to negotiate settlements with parties and dissolution of partnership including substantial tax impact of transactions

Testifying Expert in Probate Disputes Among Beneficiaries and Prior Executor and Agents

Engaged by Court in Probate Court disputes. Prepared multiple reports regarding forensics examination of the Estate and entities owned by the Estate, and prepared the estate and gift tax returns for the Estate and Decedent. Represented the multi-million dollar estate in the examination of the returns by the Estate and Gift Division Agent Attorney with a resolution of a very minimal amount of additional taxes. Testified multiple times from 2014 to 2021 relative to the forensics examination and the estate and gift tax issues. Provided information and documentation for claims against agents of the estate and the decedent.

Testifying Expert Regarding Mismanagement of Estate and Estate Assets

Engaged by plaintiff counsel in multi-year litigation relative to mismanagement claims against executors and other parties. Prepared reports and testified multiple times relative to tax reporting issues, failure to properly account for assets, failure to distribute to beneficiaries. Assistance with settlement of estate with substantial real estate assets and obtaining settlement of claims producing over $35 million to clients.

Testifying Expert Regarding Real Estate and Contractual Disputes

Engaged by counsel in dispute and forensics examination relative to various contractual disputes regarding leases of commercial building and related matters. Conducted examination and prepared report relative to the disputes, including commitments, contracts, remodeling of structures and costs relative thereto. Case settled during final deposition stage shortly before trial.

Consulting Expert Regarding Estate Disposition

Engaged by plaintiff counsel to assist in protecting assets of spouse in partnership and estate dispute regarding wealthy Bexar County decedent

Consulting Expert Regarding IRS Special Agent Investigation

Engaged by counsel for third party witness regarding IRS Special Agent investigation into potentially illegal structuring of partnership entities to avoid self-employment and payroll taxes

Testifying Expert Regarding Retirement Plan Structure and Income Tax Reporting

Engaged by defense counsel regarding structure of retirement plan, tax effects of the plan's implementation on the parties, subsequent IRS examination. Testified as to these matters, and client won the verdict of the jury

Testifying Expert Regarding Tax Issues Relative to US Bankruptcy Court Case

Engaged by plaintiff counsel to analyze tax issues relative to substantial claims in excess of $58 million judgment in US Bankruptcy Court in Connecticut. Prepared analysis of various tax issues and related issues regarding accounting for assets of marital estate, partnerships, corporations, trusts and related entities. Attended depositions of other experts relative to these issues.

Testifying Expert Regarding Probate Issues, Related Tax Issues and Distribution of Assets of Estates

Engaged by counsel for two of three beneficiaries in dispute over estate assets, and tax reporting for such estates. Both spouse died in the same year. Testified relative to the issues and the forensics examination, including alternative tax reporting alternatives to minimize impact of estate and gift tax filings. Successfully achieved transfer of over $35 million in assets without any estate tax to either estate. Assisted in negotiations to settle disputes among beneficiaries, and achieve distribution of the assets in accordance with such settlement.

Consulting Expert Regarding Partnership Dispute and Defalcations

Engaged by counsel re partnership agreements, forensic examination for potential defalcations and failure to comply with partnership agreement. Helped to negotiate settlement of the disputes

Consulting Expert Regarding Embezzlement of Cash Collections in Food Manufacturing Operation

Engaged by plaintiff counsel in forensics examination of embezzlement case relative to theft of cash from business operations. Issued extensive report to counsel and submitted to District Attorney.

Consulting Expert Regarding IRS Reporting Issues

Engaged by defense counsel regarding IRS investigation relative to potential unreported income from medical labs and testing facilities. Negotiated settlement with IRS relative to the findings of the forensics examination.

Consulting Expert Regarding Settlement of Estate

Engaged by counsel for a beneficiary of estate relative to dispute among the beneficiaries and preparation of analysis of assets and liabilities for settlement of estate.

Testifying Expert in Family Law Dispute

Represented spouse in family law dispute regarding assets from sale of business and division of said assets. Client counsel died during the case. Brought new attorney up to speed and helped to negotiate settlement of case and ensure assets were distributed in accordance with the decree and property settlement.

Consulting Expert in Medical Practice Dissolution Dispute

Engaged by counsel for a physician partner in a medical practice that was dissolving. Prepared analysis of capital accounts for settlement of dispute re buy-sell agreements and resolution of financial aspects of the agreements.

Testifying Expert in Family Law Dispute

Engaged by counsel for spouse in family law dispute over hiding of assets by spouse. Forensics examination conducted, report issued. Deposition and court testimony regarding the attempts at hiding assets, the property owned by the marital estate, and proposed distribution of assets. Findings were upheld by the Court in the distribution of assets mandated in the decree.

Testifying Expert in Family Law Dispute

Represented spouse in family law dispute regarding separate and community property issues, division of assets; prepared valuation of auto dealerships; prepared report relative to medical practice assets of physician spouse, and helped to negotiate settlement of the multiple assets and multiple businesses of the parties.

Testifying Expert in Probate Dispute

Engaged by counsel relative to probate dispute and related IRS reporting issues. Issued report analyzing findings and assisted in resolution and settlement of case.

Consulting Expert in Family Law Dispute

Engaged by counsel regarding oil and gas interests owned by client. Prepared analysis of the assets and tracing of separate versus community property. Assisted in negotiation of settlement of division of assets.

Testifying Expert in Defalcations by Agent of Business

Engaged by plaintiff counsel relative to analyzing and preparing report relative defalcations by manager of properties and funds of plaintiff, and failure of bank personnel to prevent the defalcations. Issued report and assisted in resolution of the case after deposition testimony by other parties to the case, which was resolved in favor of plaintiff.

Testifying Expert in Business Dispute Regarding Ownership of Assets and Defalcations

Engaged by counsel to prepare forensics analysis regarding assets of restaurant and related real estate, including defalcations by officer of the business. Analyzed financial documents re dispute as to ownership of the business and prepared report relative thereto. Assisted in negotiating settlement re buyout of the officer and offsetting those claims with the proof of defalcations and diversions of assets by the officer.

Consulting Expert Regarding Shareholder Dispute Relative to Contract Compliance

Engaged by counsel in shareholder dispute to prepare analysis of contract requirements and generate report relative to distributions required by agreements versus distributions actually made.

Consulting Expert Regarding Insurance Contract Terms and Lack of Compliance

Engaged by plaintiff counsel to analyzed proposals for sale of insurance policy and represented terms and projections versus actual terms and policy issued. Prepared analysis and report on issues, leading to eventual settlement with insurance agent, broker and insurance company.

Consulting Expert Regarding Lost Profits and Failure to Comply With Contract Terms

Engaged by counsel in dispute regarding compliance with contractual terms regarding sale of business interests and failure to pay party to the contract according to the terms of the contract. Generated settlement of claims substantially in excess of original payment by potential defendant.

Consulting Expert Regarding Potential Sale of Oil and Gas Operating Entity

Engaged by counsel to assist in potential sale of entity providing services in oil and gas industry. Prepared analysis of operations and assets and assisted in negotiations relative to the sale of the business.

Testifying Expert Regarding IRS Examination Relative to Purported Unreported Income of Retail Entity

Engaged by defense counsel relative to intensive investigation into purported unreported income by a retail entity relative to its cash collections and Paypal accounts. Prepared analysis, met with Internal Revenue Service on multiple occasions and provided documentation allowing counsel to settle case with the Internal Revenue Service.

Consulting Expert Regarding Contract Disputes for Art Museum

Engaged to prepare analysis of transactions and resolution of contract disputes. Assisted in negotiation settlement of disputed amounts.

Consulting Expert Regarding Contract Disputes for Construction of Commercial Building

Engaged by counsel regarding contract dispute in real estate transaction relative to building construction. Prepared analysis of costs and documented claims of client regarding expenditures in accordance with terms of contract.

Testifying Expert in Probate Court Relative to Substantial Contractual Disputes

Engaged by the District Court, in a case transferred to the Probate Court, regarding substantial disputes relative to terms of agreements, disposition of assets, accounting for assets, distributions to partners and related transactions. Prepared analysis and testified relative to findings. Court decision relative to the findings of the forensics analysis upheld by appellate court.

Testifying Expert in Minority Shareholder Oppression

Engaged by counsel for minority shareholder in dispute relative to buyout terms. Issued report and testified in deposition relative to defendant attempts to oppress and manipulate terms to minority shareholder.

<u>Other Cases Not Listed</u>

Have testified over many years in at least forty family law cases, relative to proposed equitable distribution of assets and liabilities, valuations of assets, tax impact on settlements, alimony, child support calculations and related matters.

Have participated in many analyses and structures of sales or acquisitions of businesses, including followup analyses of compliance with contracts, resulting in disputes to be mediated or arbitrated.

Have analyzed lost profits, damages claims and related matters for several disputes relative to contract disputes where I was not hired by counsel, but by an entity or person party to the dispute.

Expert Witness Testimony in Prior Four Years

In the Matter of The Estate of Roy Orey Lindsay, Sr, Deceased

Civil Action Cause No 13-12-20542 CVR, District Court, Reeves Co, Texas, 143rd Judicial District, Sitting in Matters of Probate

Engaged by the Estate, under specific Order of the Court. Provided reports and testimony relative to analysis, tax issues, forensics examination of estate assets and liabilities and tracing of assets, some of which were transferred outside the estate. Testified as to tax liabilities and claims of estate against outside parties.

***

Eugene L Watkins, Jr vs Anthony R Bertucci, American Affordable Homes, LP and American Affordable Homes & Properties, Inc

Probate Action Cause No C-1-PB-17-00937, related to Cause No C-1-PB-000577, Probate Court One, Travis County, Texas

Provided deposition testimony and testimony in hearings regarding substantial disputes relative to terms of agreements, disposition of assets, accounting for assets, distributions to partners and related transactions.

***

Daniel Measurement and Control, Inc and Micro Motion, Inc vs Angus Measurement Services, LP and Angus Operations, LLC

Civil Action Cause No B-18-01-0086 CV, in the District Court of Ector County, Texas, 161st Judicial District

Case settled. Provided deposition testimony as to claims of plaintiffs for lost profits and breach of contract in contractual disputes among the parties.

***

In the Matter of the Marriage of Tabatha Brown and Cameron Brown, et al

Family Law Matter, Cause # D-1-FM-22-000776, in the 261st Judicial District of Travis County, Texas

Testified as to federal income tax liability and associated interest and penalties, through date of divorce; testified as to tax-effected present values of retirement benefits

***

In Re: Joseph Paul Beninati, Debtor
United States Bankruptcy Court, Western District of Texas, Chapter 7, Case No 20-10096-TMD

Provided deposition testimony regarding substantial disputes relative to terms of agreements, DS

federal and state income taxes relative to the debtor and related entities, trusts, coporations, LLCs and partnerships, taxability of certain transactions, conflicting information on tax returns and related matters

****

In the Matter of the Marriage of Tamara Marie Rezler and Steven Bryan Warner, the 353rd Judicial District Court of Travis County, Texas; Cause No D-1-FM 23-003516

Testified in deposition and court proceedings regarding separate and community property characterization and tracing issues, income tax issues and related property settlement discussions

****

In Re: J Craig Walter, individually and as beneficiary of the Walter Bypass Trust, the Walter Marital Trust, the J Craig Walter Children's Trust and the J Craig Walter Children's Exempt Trust, Plaintiff v J Brian Walter, individually, and as Trustee of the Walter Bypass Trust, the Walter Marital Trust, the J Brian Walter Trust; J Blake Walter, individually and as Trustee of the J Craig Walter Children's Trust. the J Craig Walter Children's Exempt Trust, and the J Blake Walter Trust; High Tines Ranch LP and JVW, Inc, Defendants; Cause No DC-22-04675 in the District Court, 192nd Judicial District of Dallas County, Texas

Testified in court proceedings regarding the accountings prepared of the trusts on behalf of the Trustees and various tax issues relative to the trusts, their principal and income as reported in said accountings

BIBLIOGRAPHY RELATED TO CASE

1. **Vernon's Texas Statutes and Codes Annotated, Subtitle B Texas Trust Code, Chapter 113 Administration, Subchapter E, Accounting by Trustee**
   a. **Property Code Section 113.151 Demand for Accounting**
   b. **Property Code Section 113.152 Contents of Accounting**
   c. **Property Code Section 114 Liabilities, Rights and Remedies of Trustees, Beneficiaries and Third Persons**
   d. **Property Code Section 116 Uniform Principal and Income Act**
   e. **Property Code Section 117 Uniform Prudent Investor Act**
2. **Vernon's Texas Statutes and Codes Annotated, Estates Code, Title 2, Subtitle I. Independent Administration**
   a. **Chapter 351 Powers and Duties of Personal Representative**
   b. **Chapter 404.001 Accounting**

Appendix B

Documents Reviewed

Bates Start	Bates End	Document
N/A	N/A	2024 Tax Return Robert & Brandi Ylla.pdf
N/A	N/A	Client's Financial Docs 2.18.25.pdf
N/A	N/A	Daugherty Settlement Agreement.pdf
N/A	N/A	Doc No. 1 - Adv. Complaint.pdf
N/A	N/A	Doc. No. 1-1 - Adv. Complaint (Exhibit A).pdf
RNY(ATI)_0001	RNY(ATI)_0326	Respondent's ATI docs- Bates nos. RNY(ATI)_0001-326 ATI Docs (02099851x7A25A).PDF
000637	000726	2020.11.18 - Hearing Transcript.pdf
N/A	N/A	2022.05.04 - Discussion with Jim Seery.pdf
N/A	N/A	2025.09.04 - Hearing Transcript - Motion to Dismiss.pdf
N/A	N/A	RE Daugherty v. HCMLP.eml
Daugherty ROGs00003729	Daugherty ROGs00003729	Highland 2008 - Form 4605-A Daugherty ROGs00003729.pdf
HUNTON_000004	HUNTON_000008	HUNTON_000004.pdf
HUNTON_001131	HUNTON_001162	HUNTON_001131.pdf
HUNTON_001163	HUNTON_001169	HUNTON_001163.pdf
HUNTON_001170	HUNTON_001181	HUNTON_001170.pdf
PDADV_010244	PDADV_010261	PDADV_010244.pdf
PDADV_010262	PDADV_010267	PDADV_010262.pdf
PDADV_010268	PDADV_010339	PDADV_010268.pdf
PDADV_010346	PDADV_010346	PDADV_010346.pdf
PDADV_010520	PDADV_010520	PDADV_010520 - 2008 Comp statement dated Feb 09.pdf
PDADV_011013	PDADV_011017	PDADV_011013.pdf
N/A	N/A	Tab 01--Dkt 39 Answer to HCMLPs complaint and original counterclaim.pdf
Daugherty ROGs00016700	Daugherty ROGs00016702	Tab 02--Email from JAM to Uebler 5.5.2022-Daugherty ROGs00016700-5.5.2022.pdf
Daugherty ROGs00022527	Daugherty ROGs00022528	Tab 03--Email from Seery to Daugherty 10.19.2022 Daugherty ROGs00022527.pdf
N/A	N/A	Tab 04--Email from JAM to Bobo 5.24.2024.pdf
PDADV_010182	PDADV_010210	Tab 05--Settlement Agreement PDADV_010182.pdf
N/A	N/A	Tab 06--2025.12.12 Daugherty's Amended Responses to Highland's RFA.pdf
N/A	N/A	Tab 07--2025.12.12 Daugherty's Amended Resp to Highland's Interr.pdf
PDADV_004267	PDADV_004449	Tab 08--2nd A&R LP Agreement PDADV_004267.pdf
DAUGHERTY ROGS01407735	DAUGHERTY ROGS01407742	Tab 09--First Amend to 2nd Amend LP Agmt DAUGHERTY ROGS01407735.pdf
DAUGHERTY ROGS01407743	DAUGHERTY ROGS01407749	Tab 10--Second Amend to 2nd Amend LP Agmt DAUGHERTY ROGS01407743.pdf
DAUGHERTY ROGS00336187	DAUGHERTY ROGS00336201	Tab 11--DAUGHERTY ROGS00336187-Amend Empl Agmt.pdf
PDADV_000019	PDADV_000019	Tab 12--PDADV_000019 - Resignation 2011.pdf
PDADV_010520	PDADV_010520	Tab 13--PDADV_010520 - 2008 Comp statement dated Feb 09.pdf
PDADV_004224	PDADV_004225	Tab 14--PDADV_004224 - JD and PD email exchange 9-27-11.pdf
N/A	N/A	Tab 15--PN-0007_PATRICK DAUGHERTY - FINAL 2008 K1.pdf
Daugherty ROGs00003729	Daugherty ROGs00003729	Tab 16--Highland 2008 - Form 4605-A Daugherty ROGs00003729.pdf
Daugherty ROGs00003740	Daugherty ROGs00003740	Tab 17--2.3.18 Letter from Collins to Daugherty Daugherty ROGs00003740.pdf
Daugherty ROGs00003730	Daugherty ROGs00003733	Tab 18-- Form 886-Z - Daugherty ROGs00003730.pdf
Daugherty ROGs00003734	Daugherty ROGs00003736	Tab 19-- Form 870-PT Daugherty ROGs00003734.pdf
PDADV_004687	PDADV_004687	Tab 20-- PDADV_004687 - Collins 7.2018 email to PD re 60 day lr and appeal.pdf
PDADV_004856	PDADV_004856	Tab 21-PDADV_004856 - Collins Dec 2019 email to PD re appeal of adjustments.pdf
HUNTON_001105	HUNTON_001108	Tab 22--2.28.25 Ltr to IRS Appeals HUNTON_001105.pdf
PDADV_004971	PDADV_004971	PDADV_004971.pdf

EXHIBIT 60

PDADV_004224-PDADV_004225

Pat Daugherty

From: Jim Dondero
Sent: Tuesday, September 27, 2011 5:54 PM
To: Pat Daugherty
Cc: Patrick Boyce
Subject: Re: What do you stand for? This retrade is unfair and unjust.

Its not a retrade, we were clarifying a general understanding. You will trust or you will leave; you will get no agreement in writing. You will stop pushing and wasting my time. You will contribute and be rewarded and when u feel unfairly treated you can go elsewhere but I won't deal with this much distraction, disrespect or disruption.

From: Pat Daugherty
Sent: Tuesday, September 27, 2011 02:04 PM
To: Jim Dondero
Subject: RE: What do you stand for? This retrade is unfair and unjust.

You are the one who told me to "f@ck myself", not the other way around. For the record, the agreement always expressly noted that I would have to be employed at Highland in order to get any payment of bonus (as has always been the case). As for Tunstall, we had already negotiated that agreement which clearly states the nature of my interest and your interest. The nature of the Restoration economic interest will be as agreed subject to investor approval as they are going to have their own views of how my, yours and the teams comp should be structured. I have never tried to skim you and I am not trying to now. That said, it is reasonable to get the nature of my compensation in writing so that everyone is clear. Every other Company in the universe commits their economic relationships with their managers to writing so that there can be no confusion down the road. To insist that I do otherwise is flat out wrong and you know it.

If you don't want me to give a damn about you personally then I guess I'll do my best to comply. That said, I have been by your side thru a whole lot of sh@t and it is so refreshing to get your boot up my a$$ now that you are back on your feet. I'm glad to see you are back to the point where you can tell those closest to you to "f@ck themselves".

Patrick H. Daugherty, Esq.
Partner, Head of Distressed, Special Situations and Private Equity
Highland Capital Management, L.P.
13455 Noel Road, Suite 800
Dallas, TX 75240
972-628-4100 (phone)
972-628-4147 (fax)
pdaugherty@hcmlp.com

From: Jim Dondero
Sent: Tuesday, September 27, 2011 1:27 PM
To: Pat Daugherty
Cc: Patrick Boyce
Subject: Re: What do you stand for? This retrade is unfair and unjust.

Dondero
EXHIBIT NO. 160
M. FOLKS

Cause No DC-12-04005
Highland Parties' Trial Exhibit
160

1 DAUGHERTY 001349

I won't take you speaking with me like that. "Big brother u never wanted" doesn't allow u to be that disrespectful. I'm not willing to make that indicative letter a contract. There are things that need to be corrected such as bonus amounts of 750k feb aug need to both be described as retention, in-good-standing to receive. 25% interest in tunstall and RCP need to be described as LP interests not a fee skim. Re REIT you will be treated fairly re a transaction that may or may not happen and if the anticipated deal occurs as expected you can expect approx 15% but its too lose to define and you will have to trust me. You have been treated more than fair in a value proposition that is always shift. If you believe I have been untrustworthy you should move on.
Re my personal life, its not relevant except to say I will tolerate the individual, passions and peculiarities, to a point. Beyond that point it becomes too unpleasant and I'd rather start over alone. You need to stop pushing me.

From: Pat Daugherty
Sent: Tuesday, September 27, 2011 09:48 AM
To: Jim Dondero
Subject: What do you stand for? This retrade is unfair and unjust.

Patrick H. Daugherty, Esq.
Partner, Head of Distressed, Special Situations and Private Equity
Highland Capital Management, L.P.
13455 Noel Road, Suite 800
Dallas, TX 75240
972-628-4100 (phone)
972-628-4147 (fax)
pdaugherty@hcmlp.com

Exhibit 61 Slipsheet

(Subject to Motion to Seal and Protective Order)

Exhibit 62 Slipsheet

(Subject to Motion to Seal and Protective Order)

EXHIBIT 63

PDADV_018426-PDADV_018426

Delete | Archive | Report | Move to | Reply | Reply all | Forward | Share to Teams | Zoom | Immersive Reader | Read / Unread | Categorize | Flag / Unflag | Pin / Unpin | Print

Re: Daugherty Settlement Agreement Follow-Up

JS James Seery<jpseeryjr@gmail.com>

To: Patrick Daugherty

Cc: David Klos <dklos@highlandcapital.com>; Thomas Surgent <tsurgent@highlandcapital.com>

Reply | Reply all | Forward

Mon 10/24/2022 1:30 PM

Start reply with: Okay, thank you! | Ok, thanks. | Got it, thanks!

Pat:

So you are prepared, its 446 files totaling 178MB. Thanks

Best. Jim

Jim Seery
631-804-2049
jpseeryjr@gmail.com

From: James Seery <jpseeryjr@gmail.com>
Date: Monday, October 24, 2022 at 12:57 PM
To: Patrick Daugherty <pdaugherty@glacierlakecap.com>
Cc: David Klos <dklos@highlandcapital.com>, Thomas Surgent <tsurgent@highlandcapital.com>
Subject: Re: Daugherty Settlement Agreement Follow-Up

Pat:

Following up on the distribution below.

We took the liberty of setting up the distribution through developmentspecialists.sharefile.com using your Glacier Lake Capital email address (pdaugherty@glacierlakecap.com). Please let us know if you would prefer to use another email or you want anyone else added to the site. You should be receiving any email to Glacier Lake that will provide you with access to the site.

We propose to keep the site open until the close of business on October 31, 2022. That should give you and any of your lawyers or accountants (that you advise us to provision with their email addresses) plenty of time to download the information.

Please let me know if this works for you.

Best. Jim

Jim Seery
631-804-2049
jpseeryjr@gmail.com

From: James Seery <jpseeryjr@gmail.com>
Date: Wednesday, October 19, 2022 at 1:23 PM
To: Patrick Daugherty <pdaugherty@glacierlakecap.com>
Cc: David Klos <dklos@highlandcapital.com>, Thomas Surgent <tsurgent@highlandcapital.com>
Subject: Daugherty Settlement Agreement Follow-Up

EXHIBIT 64

Internal Revenue Service
Large & Mid-Size Business
4050 Alpha Road
MC: 4515 NDAL
Dallas, TX 75244

Department of the Treasury

Date:
03/03/2010

Taxpayer Identification Number:
(Not used on TMP Letter)

Name of Partnership:
Highland Capital Management, L.P.

Partnership ID Number:
75-2716725

Tax Year Ended:
200812

Person to Contact:
Brent A Masters

Employee Identification Number:
02-29461

Contact Hours:
M-F 7:00-4:30

Telephone Number:
(Not a toll-free number)
972-308-1576

THE TAX MATTERS PARTNER
Highland Capital Management, L.P.
Two Galleria Tower
13455 Noel Rd, Suite 800
Dallas, TX 75240

NOTICE OF BEGINNING OF ADMINISTRATIVE PROCEEDING

We are required by law to send you this notice. This is your notice that we are starting an administrative proceeding at the partnership level with respect to partnership items related to the partnership return identified above. This means our office is beginning an examination (audit) of your partnership's federal tax return. You have been identified as a partner. Our audit will be conducted at the partnership level through your Tax Matters Partner, who will officially represent the partnership in its dealings with the IRS. Please contact your Tax Matters Partner if you would like to participate in the proceedings. If applicable, we will mail you a notice of proposed changes upon completion of the audit.

Please be advised - We will be sending most communications, including document requests and conference notifications, only to the Tax Matters Partner who is responsible for keeping all partners apprised of scheduled events and the status of the proceedings. We urge you to maintain regular communications with your Tax Matters Partner regarding the progress of this examination. Any adjustment we make to the partnership's return may affect your personal tax liability. This proceeding may present the only opportunity to challenge our findings. The results of our audit will apply to all partners even if your representative fails to keep you informed. Our records indicate that the most recent address of the partnership is:

"Pass-thru" Partners (estate, trust, S corporation, partnership, or nominee of another person) are required to forward a copy of this notice and all notices received from the IRS to all persons holding an interest in the above-named partnership. *For example, if you are a partnership, you are required to send copies of this notice to your partners*. You must do so within 30 days of receipt of the notice. The responsibilities of pass-thru partners are set forth in Treasury Regulation (26 C.F.R.) §301.6223(h)-1.

Tax Matters Partners are required to keep each partner informed of all IRS proceedings and any court case that may follow. You must furnish the IRS with the name, address, profits interest, and taxpayer identification number of each person who was a partner at any time during the year under examination. If you did not submit this information with the partnership return, or if the information that you submitted needs to be updated, please send the most current information to the IRS address shown in this letter. The responsibilities of the Tax Matters Partner are set forth in Treasury Regulation (26 C.F.R.) §301.6223(g)-1.

Your rights as a taxpayer are set forth in IRS Publication 1, *Your Rights as a Taxpayer*. Please refer to Publication 541, *Partnerships*, for information about partnership taxation.

If you have questions, you may write or call the IRS contact person whose name, address and telephone number are listed in the heading of this letter. If you write, please enclose a copy of this letter, and include your telephone number with the most convenient time for us to call you. If our number is outside of your local calling area, there will be a long distance charge to you.

Thank you for your cooperation.

Sincerely,

Brent Masters, International Examiner

Enclosures:
Copy of this letter

EXHIBIT 65

Case:		I		II		III		IV		V	
		MIN ESTIMATION AMT.		TMP ACCEPTED AMT.		MID-POINT AMT.		IRS OFFER AMT.		MAX 2018 AUDIT AMT.	
	Reference/formula	Complete reversal of 2018 audit		Tax Matters Partner offer to IRS [6]		Hypothetical complete 50/50 split [7]		IRS settlement offer [8]		2018 adjustments from the IRS audit team [9]	
IRS income adjustment to HCMLP	**A**	**$ -**		**See note [6]**		**$ 83,166,357**		**$ 129,528,079**		**$ 166,332,713**	
Daugherty's % of partnership [1]	B	0.7403%		0.7403%		0.7403%		0.7403%		0.7403%	
Daugherty share of IRS income adjustment	C = A x B	$ -		See note [6]		$ 615,681		$ 958,896		$ 1,231,361	
2008 applicable tax rate - 35%	D	35%		35%		35%		35%		35%	
Tax underpayment – Daugherty	**E = C x D**	**$ -**		**$ 59,224**		**$ 215,488**		**$ 335,614**		**$ 430,976**	
Statutory penalty [2]	**F = E x [penalty %]**	**$ -**		**$ -**	**0%**	**$ 21,549**	**10%**	**$ -**	**0%**	**$ 86,195**	**20%**
Potential interest:											
Applicable statutory blended rate [3]	G	4.59%		4.59%		4.59%		4.59%		4.59%	
Time outstanding (years) [4]	H	10.51		10.51		10.51		10.51		10.51	
Interest accrued	**I = E x G x H**	**$ -**		**$ -**		**$ 103,860**		**$ 161,758**		**$ 207,720**	
Maximum theoretical amount (underpayment + penalty + interest)	J = E + F + I	$ -		$ 59,224		$ 340,897		$ 497,371		$ 724,892	
Income on previous refund [5]	K	$ -		$ (59,224)		$ (125,409)		$ (161,758)		$ (293,915)	
Estimation amount	**L = J - K**	**$ -**		**$ -**		**$ 215,488**		**$ 335,614**		**$ 430,976**	

IMPORTANT: SEE NOTES ON THE SUCCEEDING PAGE

Notes:
[1] Ex. 17 – Form 886-Z

[2] Ex. 30 – Imposition of penalties. 20% applied to the V case (based on the 2018 adjustments); 0% applied in the II and IV case (based on the contents of those offers); 10% applied in the III case as a 50% concession.

[3] Statutory rate is short term federal rate, plus 3%, rounded to the nearest whole percent, updated quarterly, and compounding daily. The amount described herein is the blended simple rate resulting from the application of the actual statutory, daily compounding rate. Average applicable statutory rate over the period was approximately 3.8%, and the effect of daily compounding added approximately 0.8%. See Ex's: 29, 31, 32, 33.

[4] April 15, 2009 to October 16, 2019

[5] Mr. Daugherty received cash IRS refund amounts of $493,629 and $780,301 in 2009 on account of 2008 Forms 1040 and 1045, respectively (see Ex.'s 35 and 36) for a total of $1,273,930. Had Mr. Daugherty invested this refund and earned just 4%, compounding annually (an easily obtained rate of return in the 2009-2019 period), he would have earned in excess of $600,000 as of October 16, 2019. This amount dwarfs any potential penalty or interest that is potentially assessable to Mr. Daugherty in any of the five cases described herein. However, for the sake of conservatism, Highland has assumed that Mr. Daugherty's use of the $1,273,930 of refund only generated returns equal to the penalty and interest assessed in cases III, IV, and V (in other words, Highland is assuming a rate of return of substantially below 4% compounding annually in those cases). In case I, there's simply nothing owed by Daugherty to the IRS, so no income has been calculated. And in case II, there is no penalty or interest, so it is merely assumed that Mr. Daugherty would have generated at least his underpayment amount ($59,224) of income based on investing the $1,273,930 refund over the course of over ten years – a rate of return substantially below 1% annually.

[6] Ex. 22 – HUNTON_001105. Tax matters partner's offer was for a single payment of $8M in resolution of all liability for all partners. Calculation of Daugherty's share is simply $8M x his partnership share (0.7403%). It is unclear from the offer whether the tax matters partner would or could allocate the liability amongst the partners, including Daugherty, but for the sake of conservatism, it is assumed that Daugherty would have to pay a ratable share.

[7] Assumes 50% of all adjustments and penalties in the V column as a hypothetical middle of the road resolution that sits between the current known settlement offers.

[8] Ex. 21 – HUNTON_000079; Ex. 26 – HUNTON_001120. Assumes 50% concession by the IRS on adjustment FP-01, 0% concession by the IRS on adjustment FP-02, 100% concession by the IRS on adjustment FP-03. The letter description of the FP-02 adjustment is less than crystal clear, but for purposes of this calculation, the maximum adjustment is applied.

[9] Ex. 15 – Form 4605-A; $166M of adjustment to HCMLP, plus statutory penalty

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed April 15, 2026

United States Bankruptcy Judge

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P., Reorganized Debtor.	§ § § § § § §	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff/Counter-Defendant, v. PATRICK HAGAMAN DAUGHERTY, Defendant/Counter-Plaintiff.	§ § § § § § § § § § § § §	Adversary No. 25-03055-bwo

ORDER AUTHORIZING PLAINTIFF HIGHLAND CAPITAL MANAGEMENT, L.P., AND DEFENDANT PATRICK HAGAMAN DAUGHERTY TO FILE CERTAIN EXHIBITS UNDER SEAL

Upon the joint motion ("Motion")[1] of Highland Capital Management, L.P. ("Highland") and Patrick Hagaman Daugherty ("Daugherty") (together, the "Parties") for entry of an order (this "Order"): (a) authorizing Highland to file under seal Highland's exhibits 14, 21-28, 35-37, 57, 61, 62 ("Highland's Sealed Exhibits") from Highland's Witness and Exhibit List and Daugherty to file under seal exhibits 17-26, 21a, 29, 60-62, 64-67, 69, 72-77 and 83-85 ("Daugherty's Sealed Exhibits," and together with Highland's Sealed Exhibits, the "Sealed Exhibits") from Daugherty's Witness and Exhibit List because the Sealed Exhibits discuss information designated as confidential by agreed protective orders entered in this matter (Docket Nos. 67 and 77) (the "Protective Orders"); and (b) granting related relief; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. § 1409; and this Court having found good cause for the relief requested in the Motion; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED**.

2. Highland is authorized to file Highland's Sealed Exhibits under seal.

3. Daugherty is authorized to file Daugherty's Sealed Exhibits under seal.

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

4. Any confidential information contained in the Sealed Exhibits shall remain confidential and under seal.

5. Any and all testimony and documentary evidence disclosing any confidential information at any hearing discussing the Sealed Exhibits shall be sealed at such hearing.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. The Parties are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

 # # # END OF ORDER # # #

Submitted by:

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

-and-

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC
/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

IN THE UNITED STATES DISTRICT CORT
FOR THE NORTHERN DISTRICT OF TEXAS,
DALLAS DIVISION

In re:	§	Chapter 11
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	Adversary No. 25-03055-BWO
Reorganized Debtor	§	
	§	
Patrick Daugherty,	§	
	§	
Appellant,	§	
	§	
v.	§	Civil Action No. 3:25-CV-2584-E
	§	
Highland Capital Management, L.P. et al.,	§	
	§	
Appellees.	§	

INDEX TO SEALED EXHIBITS

Docket Number (Case No. 25-03055)	Description
109	Appellee's Sealed Exhibit 14
110	Appellee's Sealed Exhibit 21
111	Appellee's Sealed Exhibit 22
112	Appellee's Sealed Exhibit 23
113	Appellee's Sealed Exhibit 24
114	Appellee's Sealed Exhibit 25
115	Appellee's Sealed Exhibit 26
116	Appellee's Sealed Exhibit 27
117	Appellee's Sealed Exhibit 28
118	Appellee's Sealed Exhibit 35
119	Appellee's Sealed Exhibit 36
120	Appellee's Sealed Exhibit 37
121	Appellee's Sealed Exhibit 57
122	Appellee's Sealed Exhibit 61
123	Appellee's Sealed Exhibit 62

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Apr 13, 2026 Form ID: pdf001 Total Noticed: 5

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Apr 15, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Apr 13 2026 21:52:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Apr 13 2026 21:52:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Apr 13 2026 21:52:00	United States Trustee - MD12, US Trustee's Office, 230 Homer Thornberry Judicial Bldg., 903 San Jacinto Blvd., Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Apr 13 2026 21:52:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Apr 13 2026 21:52:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 5

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Apr 15, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on April 13, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed April 10, 2026

United States Bankruptcy Judge

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055-bwo
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

JOINT PRETRIAL ORDER

[1] Highland's last four digits of its taxpayer identification number are (8357). The mailing address for Highland is 6333 E. Mockingbird Lane, Suite 147 #5045, Dallas, TX 75214.

This Joint Pretrial Order is jointly submitted to the Court for entry pursuant to Local Bankruptcy Rule 7016-1(a) and the Court's *Order Approving Second Stipulated Scheduling Order* [Docket No. 94][2] by Highland Capital Management, L.P. ("Plaintiff" or "Highland") and Patrick Hagaman Daugherty ("Daugherty," and together, the "Parties").

I. NATURE OF ACTION AND PROCEDURAL POSTURE

1. This action concerns Daugherty's contingent, unliquidated claim against Highland arising from the audit of Highland's 2008 tax return (the "Reserved Claim"), and Highland's claims against Daugherty, seeking to disallow and estimate his Reserved Claim.[3] This action also concerns Daugherty's Counterclaims (defined below).

2. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code (the "Bankruptcy Case" or the "Case"). Thereafter, Daugherty filed several proofs of claims in the Bankruptcy Case. Those claims culminated in Claim No. 205, which superseded and replaced all prior claims.

3. In November 2021, Daugherty and Highland entered into that certain *Settlement Agreement* (the "Settlement Agreement"), which resolved all aspects of Daugherty's claims against the Debtor's estate except for the Reserved Claim. On March 8, 2022, the Court entered an order approving the Settlement Agreement (the "Settlement Order") [Bankr. Docket No. 3299].[4] The Settlement Agreement provided that Highland would transfer to Daugherty its "interests in HERA and ERA," and that such transfer will include "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system . . . [and] be without representation or warranty of any type … and

[2] "Docket No. __" refers to the docket maintained in the above-captioned adversary proceeding (the "Adversary Proceeding").

[3] As set forth in Highland's contentions below, Highland is withdrawing its Third Cause of Action for subordination under Bankruptcy Code Section 510(c).

[4] "Bankr. Docket No. __" refers to the docket maintained in the Bankruptcy Case.

without any liability or material cost to HCMLP or its affiliates..." Highland Ex. 5 ¶8 (the "Books and Records Provision"). The Settlement Agreement further provided that Highland expressly "reserve[d] the right to assert any and all defenses" to the Reserved Claim. *Id.* ¶9.

4. On May 2, 2025, Highland commenced the Adversary Proceeding by filing its Complaint for (1) Disallowance of Claim No. 205 in its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Docket No. 1] (the "Complaint"). In its Complaint, Highland asserted three claims: (a) disallowance of the Claim, (b) estimation of the Claim pursuant to 11 U.S.C. 502(c), and (c) subordination of the Claim under 11 U.S.C. § 510(b), (excluding the claim for subordination being withdrawn with prejudice, "Highland's Claims").

5. On June 5, 2025, Daugherty filed a Motion to Dismiss the Complaint [Docket No. 5]. Highland filed an Objection and a Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024 [Docket No. 10]. At the hearing on Daugherty's Motion to Dismiss and Highland's Cross Motion, the Court denied the Motion to Dismiss and granted the Cross Motion. The Court's ruling struck a particular provision of the Settlement Agreement that Daugherty contends prohibited Highland from filing this Adversary Proceeding.[5]

6. On October 3, 2025, Daugherty filed his *Answer* and *Original Counterclaim* [Docket No. 39], asserting three causes of action against Highland: (a) breach of contract for breach of the Books and Records Provision; (b) specific performance through which Daugherty seeks an order requiring Highland to turn over all of HERA and ERA books and records in compliance with the Books and Records provision; and (c) attorneys' fees arising from Highland's allegedly bad faith

[5] Daugherty appealed to the district court from this Court's order granting the Cross Motion. That appeal is still pending. Daugherty does not intend to relitigate those issues at the upcoming April 17 hearing, but Daugherty is not waiving his existing appeal or any right to re-raise the issue in an appeal from the Court's ruling after the April 17 hearing.

conduct in commencing the Adversary Proceeding (collectively, the "Counterclaims"). On October 24, 2025, Highland filed its *Answer* to the Counterclaims (which included its affirmative defenses) [Docket No. 56].

7. A trial on Highland's Claims and Daugherty's Counterclaims is scheduled for April 17, 2026.

II. STATEMENT OF STIPULATED FACTS

A. The Parties Stipulate to the Following Facts:

8. From 1998-2011, Daugherty was employed by Highland.

9. Daugherty and Highland entered into that certain Amended Employment Agreement dated as of December 31, 2004 (the "Employment Agreement"). Highland Ex. 11.

10. On or about February 27, 2009, Highland issued to Daugherty a Comprehensive Compensation and Benefits Statement. Highland Ex. 13 (the "Comprehensive Statement").

11. In 2009, based on a draft Schedule K-1 that Highland provided to him, Daugherty filed his 2008 federal income tax return.

12. In 2009, Daugherty received refunds from the IRS of previously paid taxes in the amounts of $493,629 and $780,301 related to his 2008 Individual Income Tax Return (Form 1040) and his 2008 Application for Tentative Refund (Form 1045), respectively. These forms incorporated Highland's losses that had been allocated to him as provided for in the draft Schedule K-1.

13. On March 3, 2010, the IRS notified Highland that it was initiating an audit of Highland's 2008 federal income tax returns.

14. On September 28, 2011, Daugherty gave voluntarily notice of resignation from all positions at Highland. Highland Ex. 12. His last day as an employee at Highland was October 31, 2011.

15. On October 16, 2019, Highland filed its petition for relief under chapter 11 of the Bankruptcy Code (the "Bankruptcy Case").

16. On February 22, 2021, the Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Main Docket No. 1943] (the "Confirmation Order") with respect to the Plan.[6]

17. The Plan included a form of *Claimant Trust Agreement* (the "CTA"). [Bankr. Docket No. 1811, Exhibit R (preamble)].

18. The Plan created the CTA when the Plan went effective on August 11, 2021. [Main Docket No. 2700].

19. On November 22, 2021, Daugherty and Highland executed the Settlement Agreement. Highland Ex. 5.

20. On March 8, 2022, the Court entered the Settlement Order approving the Settlement Agreement.

21. On May 5, 2022, and October 19, 2022, Highland delivered certain documents and materials to Daugherty as reflected in Daugherty Exhibits 33 and 34, respectively.

22. The Reserved Claim remains disputed, contingent, and unliquidated.

III. CONTESTED ISSUES OF FACT

The statements and contentions in this section reflect the respective views of each Party and are not a joint statement or stipulation. No Party admits, agrees, or acquiesces to any factual or legal contentions, statements, or allegations of any other Party.

23. The Parties disagree on the following issues of fact:

- Whether the Compensation Statement is a binding and enforceable contract (Mixed

[6] The "Plan" refers to the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on the main docket at Docket No. 1808. The Confirmation Order was subsequently modified for reasons irrelevant to the Motion. *See* Main Docket No. 4378.

question of law and fact)?

- Whether Highland fulfilled its obligations, if any, under the Compensation Statement?
- If the Compensation Statement is an enforceable contract, and Highland has not fulfilled its obligations thereunder, whether Daugherty's Reserved Claim can be estimated in accordance with Section 502(c) of the Bankruptcy Code (Mixed question of law and fact)?
- If Daugherty's Reserved Claim can be estimated, how much should the Reserved Claim be estimated at for purposes of allowance.
- Whether the failure to estimate Daugherty's Reserved Claim before August 11, 2026, would unduly delay the administration of Highland's bankruptcy case?
- Whether Highland breached the Settlement Agreement's Books and Records Provision?
- Whether Highland acted in "bad faith" and is therefore liable for Daugherty's attorneys' fees?

IV. CONTESTED ISSUES OF LAW

24. The Parties disagree on the following issues of law:

- The Parties disagree over whether Daugherty's Reserved Claim should be disallowed (Mixed question of law and fact).
- The Parties disagree about whether Highland fulfilled its obligations under the Books and Records Provision (Mixed question of law and fact).
- The Parties disagree about whether Daugherty's breach of contract claim is barred by the statute of limitations.
- The parties disagree about who has the ultimate burden of proof on each cause of action and what those burdens are.

1. Estimated length of trial.

25. The Parties estimate that trial in this case will take one full day.

2. Additional matters that might aid in the disposition of the case.

26. None at this time.

V. PARTIES' CLAIMS AND DEFENSES

The following statements and contentions of the respective Parties in this Section reflect the respective views of each Party and are not a joint statement or stipulation. No Party admits,

agrees, or acquiesces to any factual or legal contentions, statements, or allegations of any other Party.

A. Summary of Highland's Claims and Defenses

1. Daugherty Has the Ultimate Burden of Proof

27. Under 11 U.S.C. § 502(a) a "claim ..., proof of which is filed under section 501 [of the Bankruptcy Code], is deemed allowed, unless a party in interest ... objects." 11 U.S.C. § 502(a). The ultimate burden of proof for a claim always lies with the claimant. *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep't of Rev.*, 530 U.S. 15 (2000)). Thus, Daugherty has the ultimate burden of proof with respect to the allowance and amount of his Reserved Claim.

28. Daugherty also has the ultimate burden of proof with respect to each of his Counterclaims.

2. Daugherty's Claim Should Be Disallowed

29. Daugherty's Claim should be disallowed for three independent reasons: (a) the Compensation Statement[7] is unenforceable as a contract because it is vague and indefinite and is missing material terms required to form a contract; (b) if the Compensation Statement creates an enforceable contract, Highland long-ago satisfied any obligations it may have had thereunder; and (c) under the plain and unambiguous terms of the Employment Agreement,[8] Daugherty surrendered any rights he may have had under the Compensation Statement when he voluntarily resigned from all positions at Highland in October 2011.

[7] Highland Ex. 13.

[8] Highland Ex. 11.

a. Material Terms of the Compensation Statement Are Either Vague or Indefinite or Are Missing Such that the No "Agreement" Was Reached and Claims Under the Compensation Statement are Unenforceable as a Matter of Law

30. The Compensation Statement does not constitute an offer by Highland and acceptance by Daugherty, an "at will" employee with an Employment Agreement, for anything. It is simply a summary of what Highland had or was going to pay Daugherty for services he had already performed during the prior year and a reiteration of his base salary for the next year. Every employee of Highland received a similar statement every year at the end of the performance review cycle each February. Material terms in the Compensation Statement Daugherty relies upon to claim an enforceable agreement are either vague or indefinite or are completely missing such that the so-called "agreement" is unenforceable as a matter of law. As relevant here, the alleged "agreement" is contained in three sentences that state only: "Refund is an ***estimated amount***. If actual refund deviates ***materially*** from estimate, ***other compensation*** will be ***fairly adjusted***. Refund is expected to be received in approximately 4 months."[9] That's it.

31. Under Texas law, a contract that fails to address all of its essential and material terms with a reasonable degree of certainty and definiteness is unenforceable as a matter of law. *See APS Cap. Corp. v. Mesa Air Grp., Inc.*, 580 F.3d 265, 272 (5th Cir. 2009) ("In order to be a legally enforceable contract, an agreement must be formed around the contours of sufficiently specific terms."). Material terms "are those that the parties would reasonably regard as vitally important elements of their bargain," and "a contract must define its essential terms with enough precision to enable the court to determine the obligations of the parties." *In re ACM-Tex., Inc.*, 430 B.R. 371, 408 (Bankr. W.D. Tex. 2010); *see also Wesdem, LLC v. Illinois Tool Works Inc.*, 2022 WL 18585978,

[9] Highland Ex. 13 (emphasis added).

at *4 (W.D. Tex. July 28, 2022), *aff'd sub nom.*, 70 F.4th 285 (5th Cir. 2023) ("Where the agreement is so indefinite that the Court must 'speculate' about its terms, the contract fails 'as a matter of law.'") (quoting *RealPage, Inc. v. EPS, Inc.*, 560 F. Supp. 2d 539, 547 (E.D. Tex. 2007) (granting summary judgment on a breach of contract claim because the licensing agreement failed to specify the product to be licensed and its price, affording the court no basis for understanding the parties' obligations); *Coppock v. Doug's Corner, Inc.*, No. 5:21-CV-43-RWS-JBB, 2023 WL 11947178, at *3 (E.D. Tex. May 17, 2023) (noting that "the agreement's terms must also be sufficiently definite to 'enable a court to understand the parties' obligations' and to give 'an appropriate remedy' if they are breached.") (quoting *Fischer v. CTMI, L.L.C.*, 479 S.W.3d 231, 237 (Tex. 2016)).

32. "As a general matter, Texas courts have consistently held that a contract may be held void for indefiniteness if it fails to specify 'the time of performance, the price to be paid, the work to be done, the service to be rendered, or the property to be transferred.'" *Liberto v. D.F. Stauffer Biscuit Co.*, 441 F.3d 318, 324 (5th Cir. 2006) (quoting *Engelman Irr. Dist. v. Shields Bros.*, 960 S.W.2d 343, 352 (Tex. App. 1997)). "The question of indefiniteness—whether an agreement reaches all essential terms of a given transaction—is one of law for the court." *APS*, 580 F.3d at 271 (citing **COC Svcs., Ltd. v. CompUSA, Inc.,** 150 S.W.3d 654, 664 (Tex.App.—Dallas 2004)).

33. Here, under Texas law, the Compensation Statement either contains vague or indefinite terms, or omits material terms, that render it unenforceable.

34. ***First***, the 2008 tax refund is explicitly stated to be an "estimated" amount. While unstated, the refund could only come from the IRS (as the taxing authority), not Highland. But the amount is not clear; it is merely estimated because a tax refund to an individual can only be determined after that individual files his/her tax return and all of the individual's particularized tax

attributes are taken into consideration.[10] While Highland could (and did quite accurately) estimate the amount of losses it would pass through to Daugherty as a limited partner, and could therefore estimate the potential tax refund solely on account of those losses, it could not set forth with definiteness the amount of the refund Daugherty would get from the IRS. Accordingly, the prospective amount of the refund was an estimate—and "estimates" are necessarily uncertain.

35. ***Second***, as used in the Compensation Statement, the word "materially" is vague and ambiguous. To create an enforceable obligation, the Court must determine, among other things, whether the actual refund Daugherty received from the IRS "deviate[s] "materially" from [the] estimate." Here, the estimate was $1,475,816[11], which as contemporaneous evidence shows, wasn't an estimate of the cash refund that Daugherty could expect to receive, but rather an estimate of the pre-tax equivalent of such a refund. In other words, the amount reflected on the Compensation Statement was a 35% "grossed-up" amount of his estimated cash refund of $959,280 to reflect what the refund would feel like to Daugherty on an "apples-to-apples" basis with other pre-tax compensation amounts. There is simply no agreed way to determine whether a refund amount received is materially consistent with the grossed-up amount listed on the Compensation Statement.

36. ***Third***, the phrase "other compensation" is also vague and ambiguous because it had many potential permutations at the time. The Compensation Statement proves the point as it identifies myriad forms of "Earnings and Awards" and "Highland Paid Benefits" that comprise the "Total Compensation Package" that Daugherty received for services he provided to Highland in 2008, including: (a) base salary, (b) tax refund, (c) loan forgiveness, (d) other awards (including a

[10] This would include things like other sources of income, unrelated capital gains and losses from investments, unrelated K-1's from other partnerships, spousal income, estimated tax payments the individual or their spouse made during the year, individual itemized deductions, and a litany of others. Each of these factors can impact an individual's refund or tax owed each year, and Highland did not have visibility into all the factors impacting Daugherty's "married-filing-jointly" return.

[11] Highland Ex. 13.

401(k) match and a "defined benefit"); and (e) deferred compensation.[12] In all, as reflected on the Compensation Statement, Daugherty was compensated 13 different ways in 2008 alone, and other years had even more methods of "compensation". To create a contract out of the Compensation Statement, the Court would have to pick without guidance which method of compensation should be adjusted.

37. ***Fourth***, the phrase "fairly adjusted" is another subjective term susceptible to differing meanings. Indeed, it is hard to imagine in 2011 that Daugherty and Highland would have reached an agreement on what was "fair." Had the parties intended to reach a binding "agreement," they surely would have done so. Again, to create Daugherty's alleged agreement, the Court will have to identify on its own what amount would have been deemed "fair" by the parties in February 2009.

38. ***Finally***, the Compensation Statement omits numerous material terms. For example, the Compensation Statement does not (a) mention what happens if an actual tax refund is received by Daugherty (as it was) but that refund is subject to potential recovery by the IRS (as it always is); (b) reference or even consider the possibility of an audit of Highland or Daugherty; (c) provide for what would happen in the event of an audit adjustment affecting Highland or Daugherty; (d) include any time frame or due date for any potential adjustment of "other compensation"; (e) state that Highland would "adjust other compensation" to account for any interest or penalties arising in connection with any unconsidered audit; (f) state that Highland would "make Daugherty whole" if any portion of the refund was clawed back after the unconsidered audit; (g) state that any obligation Highland purportedly had would continue indefinitely, even after Daugherty was no longer affiliated with Highland; or (h) contain the words "indemnify," "reimburse," "cover," "back-stop," or phrases

[12] Highland Ex. 13. The Compensation Statement also ascribes value to paid benefits as part of Daugherty's "total compensation package", including benefits like life insurance, disability insurance, executive long-term disability, daily catered lunches, "Blackberry" charges, and paid parking.

of similar import. Contemporaneous evidence actually contradicts Daugherty's theory of endless indemnification – that rather, tax refunds "are not guaranteed, as the IRS still has the authority to audit our claimed losses and resulting refunds due."[13] It is indisputable that Highland did not (1) even file its 2008 partnership return until nearly seven months *after* giving Daugherty the Compensation Statement, and (2) learn that the 2008 partnership return was selected for an IRS audit until *March 2010*.

39. In sum, the Compensation Statement is not an enforceable contract as a matter of law because essential terms to form an agreement are either vague, indefinite, or missing. For this reason alone, the Claim should be disallowed.

b. Highland Satisfied its Obligations Under the Compensation Statement

40. Even if the unsigned Compensation Statement is deemed an enforceable contract, Highland satisfied any obligations it may have had long ago because Daugherty received a tax refund from the IRS based on partnership losses passed to him and reflected in a draft Form K-1 for 2008 that Highland provided to him, which was further validated by a final Form K-1 for 2008 that was provided in September 2009. (the "2008 K-1").[14] Specifically, as reflected on his final 2008 K-1, Daugherty was allocated ordinary business losses by Highland in excess of $4 million, along with other losses that well-exceeded the partnership allocated income he received from Highland during 2005-2007. Thus, Daugherty received even more than what was referenced in the Compensation Statement which resulted in a greater refund for Daugherty than estimated. In other words, the allocation to Daugherty of over $4 million of actual losses from 2008 reflected in the final Form K-

[13] Highland Ex. 47.

[14] Daugherty Ex. 26 (draft 2008 K-1); Daugherty Ex. 24 (final 2008 K-1).

1 delivered in 2009 (when tax-effected at 35%) exceeded the originally estimated cash refund which formed the basis of the amount referenced in the Compensation Statement.

41. When Daugherty voluntarily terminated his employment with Highland in October 2011, he acknowledged and agreed that, pursuant to the express conditions of his Employment Agreement, Highland would "have no further liability or obligation to [Daugherty] under [the Employment Agreement] or in connection with his/her employment of termination."

42. Highland, therefore, satisfied its obligations (to the extent it had any) under the Compensation Statement and Employment Agreement in full. Accordingly, the Claim should be disallowed in its entirety.

c. Under the Terms of His Employment Agreement, Daugherty Forfeited Any Right He May Have Had to Compensation When He Resigned.

43. Even if the Compensation Statement was enforceable, Daugherty's Claim still fails because he forfeited any rights he had thereunder when he terminated his employment at Highland in October 2011.

44. Daugherty voluntarily resigned from Highland on September 28, 2011, and his employment terminated on October 31, 2011.[15] By his own contention, the 2008 Tax Refund that Daugherty received from Highland was part of his discretionary bonus under the Employment Agreement. But Daugherty surrendered any right he may have had to a bonus under the Compensation Statement (to the extent he had any) when he voluntarily terminated his employment at Highland. The Employment Agreement expressly states that Daugherty must be employed in order to be eligible for a bonus. Section 3.1 of the Employment Agreement provides:

> Salary and Bonus. The annual salary (the ***"Base Salary")*** payable to the Executive during the term of this Agreement shall be an amount

[15] Daugherty Ex. 15.

> determined by the Company (in its sole discretion) and communicated in writing to the Executive, and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon the Executive's performance and shall be determined by the Company in its sole discretion. In addition, the Company ***may*** from time to time award bonuses to the Executive based on such criteria as the Company ***may establish in its discretion***. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. ***The Executive must be employed on the payment date(s) in order to be eligible for the bonus.*** The payment of salary and bonuses shall be subject to all federal, state and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of the Executive's compensation does not constitute a guarantee of employment for any specific period of time.[16]

45. Daugherty terminated his employment at Highland on October 31, 2011, and therefore, was no longer eligible for any bonus under the Employment Agreement after that date. Daugherty has admitted this in writing 15 years ago -- literally the day before he resigned in 2011. Highland Ex. 38 ("I would have to be employed at Highland in order to get any payment of bonus (as has always been the case).").

46. Further, Section 4.5 of the Employment Agreement expressly addresses Highland's liability to Daugherty in the event Daugherty voluntarily terminates his employment and does not take up work with a "competing business":

> In the event that [Daugherty] terminates his/her Continuous Status as an Executive hereunder and within one (1) year thereafter [Daugherty] is not employed by a Competing Business, [Highland] shall have no further liability or obligation to [Daugherty] under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any accrued but unused vacation time, (iii) any amounts or rights to which [Daugherty] is entitled under any other written agreement with [Highland], (iv) any unreimbursed expenses properly incurred prior to the date of termination, and (v) severance pay equal to the product of (a) two (2) weeks Base Salary … multiplied by (b) the number of

[16] Highland Ex. 11 §3.1(a)(emphasis added).

> [years of service]… [total severance not to exceed six weeks of Base Salary]... [Daugherty] acknowledges that [Highland's] obligation to pay severance, if any, will arise only … if [Daugherty] signs and returns a duly executed separation agreement and release substantially in the form attached hereto as Exhibit A….***In the event that [Daugherty] declines to sign the separation agreement and release, he/she shall not be entitled to any severance, and [Highland] will have no further liability or obligation to Daugherty under this Agreement or in connection with his/her employment or termination***. [17]

47. Since Daugherty did not sign the separation and release form and deliver it to Highland and elected to counter-sue Highland under the Employment Agreement instead (and lost against Highland),[18] he forfeited any right he may have had under the Compensation Statement for any additional consideration, including his claim for unlimited indemnity or adjustment of other pre-termination compensation.

48. Finally, one other document proves that the Parties never believed the Compensation Statement constituted an agreement that would survive Daugherty's termination from Highland: a form of Separation Agreement Daugherty refused to sign following his resignation (the "Draft Separation Agreement").[19] The Draft Separation Agreement contains, among other things, the very promise by Highland pay taxes, interest, and penalties arising from an audit of Highland's tax returns (the "Rejected Indemnity") that Daugherty now claims is implicitly included in the Compensation Statement. The evidence will show that in October 2011, when Daugherty was presented with the Draft Separation Agreement, the IRS was *only* auditing Highland's 2008 return. There would have been no reason to include the Rejected Indemnity in the Draft Separation Agreement if the Parties

[17] Highland Ex. 11 at §4.5 (emphasis added).

[18] *See* Highland Ex. 44.

[19] Daugherty Ex. 44 §3(b)(ii).

believed it was already included in the Compensation Statement and would survive Daugherty's termination.

3. Daugherty's Claim Must Be Estimated Under Section 502(c)

49. Even if Daugherty's Claim is allowed, it must be estimated under Section 502(c) of the Bankruptcy Code ("Section 502(c)"). Under Section 502(c), the Bankruptcy Court is required to estimate contingent and unliquidated claims for allowance purposes in the circumstances present here.[20] The statute provides: "[t]here shall be estimated for purposes of allowance ... (1) any contingent or unliquidated claim, the fixing or liquidation of which ... would unduly delay the administration of the case ...." 11 U.S.C. § 502(c).

50. "The public policy underlying claims estimation under the Code is to facilitate the timely administration of the case by making an expeditious assessment of the value of certain claims which would otherwise unduly delay administration." *In re Perry*, 425 B.R. 323, 381 (Bankr. S.D. Tex. 2010). Thus, where, as here, both prerequisites are met, the bankruptcy court does not merely have discretion to estimate – it has an affirmative mandatory duty to do so. The method by which the bankruptcy court estimates a claim under Section 502(c) is within the court's broad discretion. *See Matter of Brints Cotton Mktg., Inc.*, 737 F.2d 1338, 1341 (5th Cir. 1984) ("A bankruptcy court's estimation of the value of an unliquidated claim, the liquidation of which would unduly delay the proceedings, may be disturbed on appellate review only in the event of an abuse of discretion.").

[20] Daugherty's expert opines that Daugherty's Claim cannot possibly be estimated until all disputes concerning the 2008 Audit are finally resolved, if then. Aside from the fact that the expert is wrong (see below), Daugherty cannot reconcile his expert's opinion with Congress' explicit mandate reflected in the plain text of in Section 502(c)—and that's not surprising since Daugherty's expert admits he has no bankruptcy expertise and is unfamiliar with Section 502(c). Indeed, if Daugherty's expert is right, and Daugherty's Claim cannot possibly be estimated, then the Claim should be disallowed as too speculative. The one result that is ***not*** permitted under the circumstances is that Daugherty gets to hold up implementation of the express agreement between Highland and all of its stakeholders (as reflected in the court-approved Plan and Claimant Trust Agreement) concerning the deadline for the resolution of claims and the commencement of dissolution (*i.e.*, August 11, 2026).

51. Daugherty's Claim, which is both contingent and unliquidated, is precisely the type of claim that must be estimated under Section 502(c). As set forth above, the Plan was confirmed in February of 2021 and has been effective since August of 2021. Under the Sunset Provisions[21] in the Plan, CTA, Confirmation Order, and related extension orders, Highland must resolve all disputed claims, and the Highland Claimant Trust must commence the Dissolution Process, by August 11, 2026. Mr. Daugherty's Claim is the last unresolved claim against Highland's estate. Although the parties dispute whether the IRS made a "final determination" with respect to the completed 2008 IRS tax audit that concluded in 2018,[22] they agree that any final resolution of the appeal of the audit results will not be complete by the court-ordered and Plan-mandated August 11, 2026 deadline to resolve the estate's outstanding claims and commence Highland's dissolution process. Thus, if Daugherty' Claim is not estimated, Highland will be in violation of the Confirmation Order and the Extension Order and the administration of the bankruptcy case will be unduly delayed. Accordingly, this Court is required to exercise its congressionally mandated duty to estimate Daugherty's Claim under Section 502(c).

52. In applying Section 502(c), the Court has ample information to apply a reasonable methodology to estimate Daugherty's Claim, assuming any liability for Highland. The only figure subject to estimation is the amount of adjustment to Highland's 2008 partnership return (the "HCMLP Income Adjustment"). Once the sole, unknown variable—the HCMLP Income Adjustment—is estimated, the amount of Daugherty's Claim may be determined by a simple

[21] *See generally* Highland's *Motion for An Order Further Extending Duration of Trusts*, Docket 4213 (the "Extension Motion"). This Court granted the Extension Motion and extended the life of the Claimant Trust only until August 11, 2026. Docket No. 4298 (the "Extension Order").

[22] The dispute over whether "the IRS [made] a final determination with respect to the IRS Audit Dispute" (Highland Ex. 5 ¶9) was addressed by this Court when it granted Highland's motion under Rule 60 to strike the Stay Provision from the Settlement Agreement (Adv. Pro. Docket No. 23), and is irrelevant to the current dispute before the Court. *See also Memorandum Opinion and Order*, Adv. Pro. Docket No. 80) (denying Daugherty motion to stay adversary proceeding pending appeal of order granting Highland's Rule 60 motion).

arithmetic formula: [HCMLP Income Adjustment] x [Daugherty's 0.7403 percentage interest in the partnership as of the December 31, 2008]; x [Daugherty's 35% maximum personal federal income tax rate as of December 31, 2008]. Thus, the Court can reasonably estimate Daugherty's Claim by plugging in one of four different numbers for the HCMLP Income Adjustment, which in all but one case requires no subjectivity whatsoever: (i) the IRS's original determination at the conclusion of the 2018 audit;[23] (ii) the IRS's 2024 offer to the tax matters partner (Dondero) of a discounted settlement; (iii) Dondero's 2025 offer to the IRS of an even further discounted settlement; or (iv) some estimate of a hypothetical discounted settlement based on the several existing known data points. The results are set forth in the demonstrative exhibit attached as Highland D-1.

53. While Highland believes there is no basis to hold it liable for any penalties or interest that Daugherty could be required to pay on account of an "underpayment" amount resulting from HCMLP Income Adjustment, as further set forth below, Highland has nevertheless calculated these objective and statutorily determined amounts in the same demonstrative for the sake of completeness and to provide the Court with all the tools it needs to fulfill its mandate. Even if the Compensation Statement is deemed to be an enforceable contract (which Highland disputes), such Compensation Statement makes no reference to penalties or interest whatsoever, nor does it provide for any indemnification or similar obligations with respect thereto (and in fact, contemporaneous evidence contradicts such a notion). That said, even if the Court determines that the claim ought to be allowed and should include some estimate for penalties and/or interest, Daugherty has benefited from having actually received the original $1.3 million refund amount from the IRS in 2009, and Daugherty has

[23] *See* Highland Ex. 15 – Form 4605-A. And note further that while the Form 4605-A contains a $166 million adjustment to the Highland 2008 portfolio income, it also affirms $546 million of 2008 ordinary losses that Highland had reflected on its original tax return. The income adjustment, and the subsequent dispute over the adjustment, only concerns a fraction – roughly 30% - of the overall losses Highland reported, as further validated by all settlement negotiations that have since followed.

an affirmative duty to mitigate any damages arising from penalties and/or interest, which could have been accomplished through investment of the tax refund he received. Even assuming extremely conservative rates of return on such a hypothetical investment, such returns would dwarf the penalties and interest the IRS would charge in any of the scenarios described in the demonstrative.[24]

54. The Court may also use another methodology it deems appropriate under the circumstances. But there can be no dispute that this is the exact type of situation that mandates claim estimation. Accordingly, if Daugherty's Claim is allowed, it shall be estimated under Section 502(c).

4. Highland Withdraws Its Third Cause Of Action--Subordination Under Section 510(b)—With Prejudice

55. Upon reflection, Highland withdraws with prejudice its Third Cause of Action for the subordination of Daugherty's Claim pursuant Bankruptcy Code section 510(b) because (a) Daugherty's Claim has long been subject to a reserve in an amount that greatly exceeds any plausible estimate of value, (b) withdrawal will simplify the trial by eliminating the Parties' burden of litigating whether (i) Daugherty's Claim should be subordinated, and (ii) if so, whether it should be subordinated to Class 10 and Class 11, (c) withdrawal will reduce this Court's burden to decide such issues, (d) withdrawal will narrow the scope of any potential appeal, and (e) Daugherty cannot be prejudiced because, if the Court determines that the Compensation Statement is an enforceable contract, and estimates Daugherty's Claim, the Claim will remain in Class 8 where it has always been and will be paid in full.[25]

---

[24] Mr. Daugherty has had the use of the 2008 Refund *for more than 16 years* during a historically bullish period for investors, with the S&P 500, for example, returning approximately 10x for investors from the start of 2009 to early 2026. For underpayment with a filed return, the IRS charges a one-time 20% penalty on the underpaid amount, and the effective interest rate on the underpayment since Daugherty received the refund would be approximately 4.6% per year by statute.

[25] If Daugherty's Claim is subordinated to Class 10, it will receive a small fraction of its allowed amount that will be potentially paid by the Highland Claimant Trust over an indeterminate period of time. If Daugherty's Claim is subordinated to Class 11, it will be valueless since the holders of Class 10 interests will never be paid in full.

56. Based on the foregoing, Highland hereby gives notice that it withdraws with prejudice its Third Cause of Action for subordination.

5. Daugherty's Counterclaim for Books and Records is meritless

57. This counterclaim is a narrow issue that is definitively covered by the terms of the Settlement Agreement and Highland's satisfaction of its obligations. Under the Settlement Agreement, Highland agreed to "transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type. . . Such transfer will be without any liability or material cost to HCMLP or its affiliates . . ."[26]

58. While Daugherty negotiated Section 8 directly with Highland's Chief Executive Officer, James P. Seery, Jr., Daugherty has no recollection about the negotiations of this provision or why the unique phrase "books and records (spreadsheet)" was included. Seery does—and he will testify that phrase and accompanying text (a) refers to a specific set of documents and (b) was used to circumscribe the documents Highland would turn over to Daugherty. Yet here we are.

59. Despite having no recollection of the meaning and intent of Section 8, Daugherty has asserted a counterclaim contending that Highland breached its obligation under Section 8 by failing to provide all of HERA and ERA's "books and records" and suggests Highland will be liable for consequential damages if HERA does not prevail in unrelated litigation.[27] Daugherty has also asserted counterclaims for specific performance and attorney's fees. Daugherty's counterclaims are meritless.

[26] Highland Ex. 5 ¶8 ("Section 8")

[27] Highland Ex. 1 ¶¶12-13 (Counterclaim).

60. There is no dispute that HERA and ERA (a) were shell entities established for the sole purpose of holding limited, passive assets for the benefit of certain then-Highland employees as a compensation vehicle, and (b) never had any of its own employees or operations of any kind. With that in mind, the evidence will show that on May 5, 2022, just after this Court approved the Settlement Agreement, Highland delivered to Daugherty "HERA and ERA books and records" available on Highland's system, together with tax documents, and noted that, subject to a final review, it had fulfilled its obligations under Section 8.[28]

61. On October 19, 2022, in an effort to placate Mr. Daugherty, Highland provided additional information concerning HERA and ERA (including back-up for virtually all of HERA's historically recorded expenses reflected in the records previously delivered to Daugherty) and re-iterated its position that it had "satisfied all of its obligations under the settlement agreement, and our involvement in HERA/ERA (your entities) will be complete."[29]

62. Daugherty did not raise the issue of "books and records" again until January 30, 2024, when Gray Reed requested[30] that Highland supplement its delivery of documents seeking Word, Excel, and Powerpoint documents, email correspondence, legal communications, among others, all with corresponding metadata, and requesting that Highland employ an outside vendor to collect and produce the documents.

63. With Gray Reed having not yet received a substantive response from Highland, on February 29, 2024, HERA filed its original complaint against 24 individuals, law firms, or other entities.

---

[28] Daugherty Ex. 33.

[29] Daugherty Ex. 34.

[30] Highland Ex. 53

64. Just days later, on March 5, 2024, Highland's counsel responded to the January 30, 2024 letter, and stood by Highland's prior statements that it had fulfilled its obligations under the Settlement Agreement[31]

65. Then, two months later, on May 10, 2024 when a new Daugherty lawyer suddenly demanded a broad swath of documents concerning HERA and ERA that had been demanded by Gray Reed on January 30, 2024, while misquoting the settlement agreement along the way and again requesting that Highland's use of an outside vendor. Highland responded within hours, rejected Daugherty's newest demands, reiterated yet again that it believed that it had fulfilled its obligations under Section 8, and expressly invited Daugherty to seek judicial relief to finally bring the matter to a close. [32]

66. Daugherty did no such thing because—as he has proven time and time again—Daugherty has no interest in resolving anything. Thus, rather than sue Highland and enforce his purported rights under the Settlement Agreement and bring finality to the issue, Daugherty will admit that he voluntarily chose to commence an action in federal district court on behalf of HERA and ERA (the "HERA Action") knowing that Highland had refused to produce any further documents concerning those entities.[33] Daugherty will also admit that even in the face of a motion to dismiss the HERA Action, Daugherty chose not to seek leave to seek additional documents from Highland, a entity known to be in the latter stages of liquidating. It was only in October 2025, after being forced to litigate his unrelated tax claim and three and a half years after Highland informed him that it believed it had fulfilled its obligations under Section 8, that Daugherty finally sought to enforce his purported rights.

---

[31] Highland Ex. 54

[32] Daugherty Ex. 35.

[33] Highland Ex. 1 ¶¶12-13 (Counterclaim).

67. The evidence will show that Daugherty's breach of contract claim is barred by the three-year statute of limitations and that Highland otherwise did not breach Section 8.[34]

B. Summary of Daugherty's Claims and Defenses

68. Daugherty understood the local rule to require a brief summary (identification) of the claims and defenses that are at issue in the adversary proceeding hearing, and that either party could file a separate trial brief addressing issues that they belief were pertinent to the upcoming hearing. Daugherty intends to file a separate trial brief on April 13, pursuant to the Second Stipulated Scheduling Order [Docket No. 94].

69. Daugherty asserts three causes of action against Highland. First, Daugherty has a breach of contract claim related to his contention that Highland violated the Settlement Agreement's Books and Records Provision. Second, Daugherty has a cause of action for specific performance through which Daugherty seeks an order requiring Highland to fully comply with the Books and Records Provision. Third, Daugherty seeks his attorneys' fees related to his position that Highland breached the Settlement Agreement in bad faith.

70. Daugherty's defense against Highland's claim is equitable estoppel. Daugherty also continues to maintain that the Settlement Agreement's stay provision (which is quoted above) precludes Highland from filing this adversary proceeding because there has not been a final determination with respect to the IRS Audit Dispute. Daugherty has appealed that issue to the district court in connection with this Court's grant of Highland's Cross Motion under Rule 9024, which

[34] Daugherty's second cause of action is unnecessary. If the Court finds that there is a category of documents included within Section 8 that Highland has not previously produced, Highland will produce such documents within 15 days of the entry of the Court's order. And if Daugherty actually burdens the Court by pursuing his absurd claim for attorneys' fees based on Highland's supposed "bad faith" commencement of this adversary proceeding—a decision validated by this Court's Rule 60 decision—Highland will address it at that time.

struck the stay provision. Although Daugherty is not going to relitigate that issue at the April 17 hearing, he is not waiving his pending appeal or any arguments relating to this issue.

###End of Order###

GRAY REED

By: */s/ Drake M. Rayshell*
Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

-and-

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

HIGHLAND D-1

	Case:	I		II		III		IV		V	
		MIN ESTIMATION AMT.		TMP ACCEPTED AMT.		MID-POINT AMT.		IRS OFFER AMT.		MAX 2018 AUDIT AMT.	
	Reference/formula	Complete reversal of 2018 audit		Tax Matters Partner offer to IRS [6]		Hypothetical complete 50/50 split [7]		IRS settlement offer [8]		2018 adjustments from the IRS audit team [9]	
IRS income adjustment to HCMLP	**A**	**$ -**		**See note [6]**		**$ 83,166,357**		**$ 129,528,079**		**$ 166,332,713**	
Daugherty's % of partnership [1]	B	0.7403%		0.7403%		0.7403%		0.7403%		0.7403%	
Daugherty share of IRS income adjustment	C = A x B	$ -		See note [6]		$ 615,681		$ 958,896		$ 1,231,361	
2008 applicable tax rate - 35%	D	35%		35%		35%		35%		35%	
Tax underpayment – Daugherty	**E = C x D**	$ -		**$ 59,224**		**$ 215,488**		**$ 335,614**		**$ 430,976**	
Statutory penalty [2]	**F = E x [penalty %]**	**$ -**		**$ -**	0%	**$ 21,549**	10%	**$ -**	0%	**$ 86,195**	20%
Potential interest:											
Applicable statutory blended rate [3]	G	4.59%		4.59%		4.59%		4.59%		4.59%	
Time outstanding (years) [4]	H	10.51		10.51		10.51		10.51		10.51	
Interest accrued	**I = E x G x H**	**$ -**		**$ -**		**$ 103,860**		**$ 161,758**		**$ 207,720**	
Maximum theoretical amount (underpayment + penalty + interest)	J = E + F + I	$ -		$ 59,224		$ 340,897		$ 497,371		$ 724,892	
Income on previous refund [5]	K	$ -		$ (59,224)		$ (125,409)		$ (161,758)		$ (293,915)	
Estimation amount	**L = J - K**	**$ -**		**$ -**		**$ 215,488**		**$ 335,614**		**$ 430,976**	

IMPORTANT: SEE NOTES ON THE SUCCEEDING PAGE

Notes:

[1] Ex. 17 – Form 886-Z

[2] Ex. 30 – Imposition of penalties. 20% applied to the V case (based on the 2018 adjustments); 0% applied in the II and IV case (based on the contents of those offers); 10% applied in the III case as a 50% concession.

[3] Statutory rate is short term federal rate, plus 3%, rounded to the nearest whole percent, updated quarterly, and compounding daily. The amount described herein is the blended simple rate resulting from the application of the actual statutory, daily compounding rate. Average applicable statutory rate over the period was approximately 3.8%, and the effect of daily compounding added approximately 0.8%. See Ex's: 29, 31, 32, 33.

[4] April 15, 2009 to October 16, 2019

[5] Mr. Daugherty received cash IRS refund amounts of $493,629 and $780,301 in 2009 on account of 2008 Forms 1040 and 1045, respectively (see Ex.'s 35 and 36) for a total of $1,273,930. Had Mr. Daugherty invested this refund and earned just 4%, compounding annually (an easily obtained rate of return in the 2009-2019 period), he would have earned in excess of $600,000 as of October 16, 2019. This amount dwarfs any potential penalty or interest that is potentially assessable to Mr. Daugherty in any of the five cases described herein. However, for the sake of conservatism, Highland has assumed that Mr. Daugherty's use of the $1,273,930 of refund only generated returns equal to the penalty and interest assessed in cases III, IV and V (in other words, Highland is assuming a rate of return of substantially below 4% compounding annually in those cases). In case I, there's simply nothing owed by Daugherty to the IRS so no income has been calculated. And in case II, there is no penalty or interest, so it is merely assumed that Mr. Daugherty would have generated at least his underpayment amount ($500,000) of income based on investing the $1,273,930 refund over the course of over ten years – a rate of return substantially below 1% annually.

[6] Ex. 22 – HUNTON_001105. Tax matters partner's offer was for a single payment of $8M in resolution of all liability for all partners. Calculation of Daugherty's share is simply $8M x his partnership share (0.7403%). It is unclear from the offer whether the tax matters partner would or could allocate the liability amongst the partners, including Daugherty, but for the purposes of conservatism, it is assumed that Daugherty would have to pay a ratable share.

[7] Assumes 50% of all adjustments and penalties in the V column as a hypothetical middle of the road resolution that sits between the current known settlement offers.

[8] Ex. 21 – HUNTON_000079; Ex. 26 – HUNTON_001120. Assumes 50% concession by the IRS on adjustment FP-01, 0% concession by the IRS on adjustment FP-02, 100% concession by the IRS on adjustment FP-03. The letter description of the FP-02 adjustment is less than crystal clear, but for purposes of this calculation, the maximum adjustment is applied.

[9] Ex. 15 – Form 4605-A; $166M of adjustment to HCMLP, plus statutory penalty

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

In Re: Highland Capital Management, L.P

§

§ Case No 19−34054−SGJ-11

Patrick Daugherty - Appellant §

25-03055

vs §

3:26-CV-02664-S

Highland Capital Management, L.P., et al - Appellee

§

§

[138] Judgment. Entered on 8/7/2026

APPELLANT RECORD

VOLUME 8

Jason S. Brookner (Texas Bar No. 240033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	Adversary No. 25-03055-bwo
Defendant.	§	
	§	INDEX

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

APPELLANT'S AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND STATEMENT OF THE ISSUES PRESENTED

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant Patrick Daugherty ("Daugherty") hereby submits his amended designation of items to be included in the record on appeal and statement of issues to be presented in connection with his appeal from the July 24, 2026 *Judgment and Memorandum Opinion* [Docket Nos. 138, 139 in Adversary No. 25-03055-bwo]. *See Notice of Appeal* [Docket No. 142 in Adversary No. 25-03055-bwo].

Statement of Issues on Appeal

1. Whether the Bankruptcy Court erred in disallowing Daugherty's Reserved Claim based on the Employment Agreement's termination provisions, when the Court itself found the 2009 Compensation Statement was incorporated into the Employment Agreement and resolved its ambiguity in Daugherty's favor, concluding that Highland Capital Management, L.P. ("Highland") intended to compensate Daugherty for any material deviation in his 2008 tax refund.

2. Whether the Bankruptcy Court erred in applying the "no further liability or obligation" language of Sections 4.5 and 4.6 of the Employment Agreement to extinguish Daugherty's compensation entitlement under the 2009 Compensation Statement, when that language pertains to severance contingent upon execution of a separation agreement and not to earned compensation that accrued during Daugherty's active employment.

3. Whether the Bankruptcy Court erred in holding that James Dondero's oral promises to cover Daugherty's contingent tax liability were unenforceable under Texas's statute of frauds, Tex. Bus. & Com. Code § 26.01, when Highland had a main purpose of its own in making the promise and when the Court failed to consider Daugherty's continued employment and forbearance as adequate consideration.

4. Whether the Bankruptcy Court erred in denying Daugherty's counterclaim for specific performance of the Settlement Agreement's books-and-records provision by construing that provision through the statutory categories of 6 Del. C. § 18-305(a), rather than by the plain meaning of the negotiated Settlement Agreement requiring Highland to "transfer its *interests* in HERA and ERA to Daugherty" "[t]o facilitate [the] recovery of [] potential claims," including "the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system."

5. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland failed to make a showing of manifest injustice and exceptional circumstances required to rewrite a term of

the parties' bargained-for, court-approved settlement agreement that Highland Capital Management, L.P. entered on a free, deliberate, calculated, and counseled basis.

6. Whether the Bankruptcy Court abused its discretion by granting Highland Capital Management, L.P.'s Cross Motion pursuant to Fed. R. Civ. P. 60(b)(6) when Highland was estopped from seeking such relief after it obtained the benefits of the tolling provision in the settlement agreement, including, inter alia, the parties' negotiation and execution of a series of tolling agreements to the benefit of Highland Capital Management, L.P. regarding its certain claim-objection deadline.

Designation of Record

Daugherty respectfully designates the following items to be included in the appellate record pursuant to Bankruptcy Rule 8009(a):

Vol. 1
000001
000008

1. Notice of Appeal for Adversary No. 25-03055-bwo [Docket No. 142].

2. The Judgment Order or Decree appealed from: July 24, 2026 – Judgment [Docket No. 138].

000010

3. July 24, 2026 – Memorandum of Opinion [Docket No. 139].

000035

4. Docket Sheet for Adversary Case No. 25-03055-bwo kept by the Bankruptcy Clerk.

5. Documents listed below for Bankruptcy Case No. 25-03055-bwo:

Vol. 2

Filing Date	Docket No.	Description
05/02/2025	1	(16 pgs; 3 docs) Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
05/05/2025	2	(4 pgs; 2 docs) Summons issued on Patrick Hagaman Daugherty; Answer Due 6/4/2025; (Edmond, Michael)
05/05/2025	3	(2 pgs) Scheduling order setting deadlines. Discovery and all exhibits except impeachment documents: 45 days prior to Docket Call, pre-trial order: 7 calendar days prior to Docket Call, proposed findings of fact and conclusions of law: 7 days prior to first scheduled docket call (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P.). Trial Docket Call date set for 10/6/2025 at 01:30 PM at https://us-

000053
000064
000073

Vol. 2

		courts.webex.com/meet/jerniga. Trial will be held during the week of 10/20/2025. Entered on 5/5/2025 (Edmond, Michael)
05/06/2025	4	(4 pgs) Summons service executed on Patrick Hagaman Daugherty 5/5/2025 (Annable, Zachery)
06/04/2025	5	(13 pgs; 2 docs) Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order) (York, Andrew)
06/16/2025	6	(5 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding). (Annable, Zachery)
06/20/2025	7	(10 pgs) Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)
06/22/2025	8	(12 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)7 Order approving stipulation concerning Scheduling Order (RE: related document(s)6 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 6/20/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 06/22/2025. (Admin.)
07/18/2025	9	(13 pgs; 2 docs) Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) (Annable, Zachery)
07/18/2025	10	(13 pgs; 2 docs) Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).
07/18/2025	11	(43 pgs; 5 docs) Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

000076
000079
000092
000097
000107
000119
000132
000145

Vol. 2

07/28/2025 000188	12	(4 pgs) Certificate of service re: Objection, Objection, & Declaration Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)9 Response opposed to (related document(s): 5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Attachments: # 1 Proposed Order) filed by Plaintiff Highland Capital Management, L.P., 10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj). filed by Plaintiff Highland Capital Management, L.P., 11 Declaration re: *(Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
07/30/2025 000192	13	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5, (York, Andrew)
07/31/2025 000195	14	(6 pgs; 2 docs) Amended Notice of hearing filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty, 10 Motion for leave filed by Plaintiff Highland Capital Management, L.P.). Hearing to be held on 9/4/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 10 and for 5 and for 10, (Attachments: # 1 Exhibit A)(York, Andrew)
08/08/2025 000201	15	(13 pgs) Reply to (related document(s): 9 Response filed by Plaintiff Highland Capital Management, L.P.) *and Response to Plaintiff's Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
08/15/2025 000214	16	(5 pgs) Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)

Vol. 2

08/18/2025 000219	17	(3 pgs) Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
08/19/2025 000222	18	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Reply in Further Support of its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)16 Reply to (related document(s): 15 Reply filed by Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Further Support of Its Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)* filed by Plaintiff Highland Capital Management, L.P.. filed by Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
08/29/2025 000225	19	(225 pgs; 12 docs) Witness and Exhibit List *for Hearing Scheduled for September 4, 2025 at 9:30 a.m.* filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)5 Motion to dismiss adversary proceeding , 9 Response, 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit) (York, Andrew)

Vol. 3

09/04/2025 000450	20	(48 pgs; 2 docs) Witness and Exhibit List filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)5 Motion to dismiss adversary proceeding , 10 Motion for leave *(Highland Capital Management, L.P.'s (A) Objection to Patrick Daugherty's Motion to Dismiss and (B) Cross Motion for Relief from a Final Order Pursuant to Bankruptcy Rule 9024)*). (Attachments: # 1 Exhibit 1) (Annable, Zachery)
09/05/2025 000498	23	(3 pgs) Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document # 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document # 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)
09/07/2025 000501	24	(5 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)23 Order (A) denying Patrick Daugherty's motion to dismiss adversary proceeding (related document 5), and (B) granting Highland Capital Management's cross motion for relief from a final order. (related document 10). Pursuant to Bankruptcy Rule 9024(b)(6), the Settlement Order is hereby modified to provide that the Stay Provision is stricken from the Settlement Agreement. Entered on 9/5/2025. (Okafor, M.)) No. of Notices: 1. Notice Date 09/07/2025. (Admin.)

10/13	09/19/2025	25	(9 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A)(York, Andrew)
000506	09/23/2025	27	(13 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)25 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). Appellant Designation due by 10/3/2025. (Attachments: # 1 Exhibit A) filed by Defendant Patrick Hagaman Daugherty) (Attachments: # 1 Service List) (Almaraz, Jeanette)
000515	09/23/2025	28	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
000528	09/23/2025	30	(6 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02584-E. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
000530	09/25/2025	31	(7 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). (Annable, Zachery)
000536	09/25/2025	32	(4 pgs) BNC certificate of mailing. (RE: related document(s)28 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave).) No. of Notices: 0. Notice Date 09/25/2025. (Admin.)
000543	09/26/2025	33	(44 pgs; 2 docs) Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Exhibit A) (York, Andrew)
000547	09/29/2025	34	(1 pg) Request for Transcript regarding a hearing held on 9/4/2025. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)
000591			

vol. 3

09/30/2025	35	(36 pgs) Transcript regarding Hearing Held 09/04/2025 before Judge Stacey G.C. Jernigan (36 pages) RE: Motion to Dismiss Adversary Proceeding (5); Cross-Motion for Relief (10). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/29/2025. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 21 Hearing held on 9/4/2025. (RE: related document(s)5 Motion to dismiss adversary proceeding filed by Defendant Patrick Hagaman Daugherty (Attachments: # 1 Proposed Order)) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion denied for reasons stated orally. Counsel to upload order.), 22 Hearing held on 9/4/2025. (RE: related document(s)10 Highland Capital Management, L.P.'s CROSS MOTION FOR RELIEF FROM A FINAL ORDER PURSUANT TO BANKRUPTCY RULE 9024 filed by Plaintiff Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery) Modified TEXT on 7/21/2025 (hsj).) (Appearances: A. York and J. Smeltzer for P. Daugherty; J. Morris for Reorganized Debtor. Evidentiary hearing. Motion granted for reasons stated orally. Counsel to upload order.)). Transcript to be made available to the public on 12/29/2025. (Rehling, Kathy)
10/01/2025	36	(6 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (Annable, Zachery)
10/01/2025	37	(14 pgs) Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)
10/01/2025	38	(11 pgs) Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)
10/03/2025	39	(45 pgs; 2 docs) Answer to complaint , Counterclaim by Patrick Hagaman Daugherty against Highland Capital Management, L.P. filed by Patrick Hagaman Daugherty. (Attachments: # 1 Exhibit A)(York, Andrew)

000592
000628
000634
000648
000659

Vol. 3

000704	10/03/2025	40	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Reid Burley filed by Defendant Patrick Hagaman Daugherty. (Burley, Jeffrey)
000707	10/03/2025	41	(6 pgs) Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025. (York, Andrew)
000713	10/04/2025	42	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)37 Order Approving Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Plaintiff Highland Capital Management, L.P., 31 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Evidentiary Hearing to be held on 4/8/2026 at 09:30 AM Dallas Judge Jernigan Ctrm for 1, Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)
000729	10/04/2025	43	(13 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)38 Order Approving Stipulation Regarding Highland Capital Managment L.P.'s Deadline to File Response to Patrick Daughtery's Motion for Stay Pending Appeal (RE: related document(s)36 Stipulation filed by Plaintiff Highland Capital Management, L.P.). Entered on 10/1/2025 (Okafor, M.)) No. of Notices: 1. Notice Date 10/04/2025. (Admin.)

Vol 4

000742	10/06/2025	44	(29 pgs) Objection to (related document(s): 33 Motion to stay pending appeal (related documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
000771	10/09/2025	45	(3 pgs) Notice of Appearance and Request for Notice by Jeffrey Nathan Pomerantz filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
000774	10/09/2025	46	(3 pgs) Notice of Appearance and Request for Notice by John A Morris filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Morris, John)
000777	10/09/2025	47	(3 pgs) Notice of Appearance and Request for Notice by Hayley R Winograd filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Winograd, Hayley)
000780	10/09/2025	48	(3 pgs) Notice of Appearance and Request for Notice by Gregory V. Demo filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Demo, Gregory)
000783	10/13/2025	49	(9 pgs) Reply in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal (related

Case 3:26-cv-02664-S Document 12-8 Filed 10/27/26 Page 11 of 432 PageID 2417

		documents 23 Order on motion to dismiss adversary proceeding, Order on motion for leave)). (York, Andrew) Modified text to match pdf on 10/15/2025 (mdo).
10/21/2025	50	(1 pg) Clerk's correspondence requesting File an amended designation from attorney for Appellant. (RE: related document(s)41 Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty. Appellee designation due by 10/17/2025.) Responses due by 10/24/2025. (Blanco, J.)
10/22/2025	51	(6 pgs) Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). (York, Andrew)
10/22/2025	53	(1 pg) Transmittal of record on appeal to U.S. District Court . Complete record on appeal. Transmitted: Volume 1, Mini Record. Number of appellant volumes: 1 . Civil Case Number: 3:25-cv-02584-E (RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave) filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette)
10/22/2025	54	(1 pg) Notice of docketing COMPLETE record on appeal. Civil Case Number: 3:25-cv-02584-E(RE: related document(s)25 Notice of appeal filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)23 Order on motion to dismiss adversary proceeding, Order on motion for leave). (Almaraz, Jeanette)
10/22/2025	55	(3 pgs) Certificate of service re: Stipulated Scheduling Order Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)31 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)3 Standing scheduling order in an adversary proceeding, 7 Order (generic)). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
10/24/2025	56	(8 pgs) Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. (Annable, Zachery)
11/21/2025	57	(7 pgs) DISTRICT COURT Stipulation concerning supplement to record on appeal re: 3:25-cv-02584-E (RE: related document(s)51 Amended appellant designation of contents for inclusion in record on appeal and statement of

Vol 4

		issues on appeal. filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)41 Appellant designation). filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) (Almaraz, Jeanette) (Entered: 11/24/2025)
12/18/2025	58	ELECTRONIC ORDER: I, the presiding judge, will recuse myself in this adversary proceeding No. 25-03055, effective immediately. The Bankruptcy Clerk of Court will re-assign this adversary proceeding to a different bankruptcy judge in this district in accordance with his normal protocols. Ordered by Bankruptcy Judge Stacey G.C. Jernigan on 12/18/2025. (Almaraz, Jeanette)
12/19/2025		Judge Brad W Odell assigned. Involvement of Judge Stacey G Jernigan terminated (Okafor, M.)
12/19/2025	59	(11 pgs) Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/24/2025	60	(14 pgs; 2 docs) Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) (Annable, Zachery)
12/24/2025	61	(156 pgs; 7 docs) Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) (Annable, Zachery)
12/29/2025	62	(3 pgs) Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw).

000819

000830

000844

Vol. 5

001000

Vol 5

12/29/2025 001003	63	(3 pgs) Notice of hearing filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 33, (Burley, Jeffrey)Modified on 12/30/2025 (sdw).
12/30/2025 001006	64	(19 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/30/2025 001025	65	(3 pgs) Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
12/30/2025 001028	66	(14 pgs) Stipulation by Patrick Hagaman Daugherty, Patrick Hagaman Daugherty and. filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)37 Order to set hearing). (York, Andrew)
12/31/2025 001042	67	(14 pgs) Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)
01/02/2026 001056	68	(16 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)67 Agreed Protective Order (RE: related document(s)66 Stipulation filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 12/31/2025 (Okafor, M.)) No. of Notices: 0. Notice Date 01/02/2026. (Admin.)
01/05/2026 001072	69	(12 pgs) Response opposed to (related document(s): 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
01/05/2026 001084	70	(10 pgs; 2 docs) Declaration re: filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)69 Response). (Attachments: # 1 Exhibit 1) (York, Andrew)
01/08/2026 001094	71	(10 pgs) Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion*

Case 3:26-cv-02664-S Document 12-8 Filed 10/27/26 Page 14 of 1429 PageID 2420

Vol 5			*to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
001104	01/12/2026	72	(4 pgs) Certificate of service re: *Documents Served on or After December 19, 2025* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)59 Subpoena on Hunton Andrews Kurth LLP filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 61 Declaration re: *(Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery Production of Audio Recordings, Transcripts, and Related Documents *(Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)*). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3--Part 1 # 4 Exhibit 3--Part 2 # 5 Exhibit 4 # 6 Exhibit 5) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 62 Notice of hearing *(Notice of Hearing on Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)60 Motion to compel re: discovery filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 1/14/2026 at 03:30 PM via WebEx for 60, (Annable, Zachery)Modified on 12/29/2025 (sdw). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 65 Notice to take deposition of Patrick Hagaman Daugherty filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 71 Reply to (related document(s): 69 Response filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty) *(Highland Capital Management, L.P.'s Reply in Support of Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents)* filed by Plaintiff

Vol. 5

		Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/12/2026 001108	73	(3 pgs) Certificate of service re: *Highland Capital Management, L.P.s Answer to Patrick Daughertys Original Counterclaim* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)56 Answer to counterclaim *(Highland Capital Management, L.P.'s Answer to Patrick Daugherty's Original Counterclaim)* filed by Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
01/15/2026 001111	74	(2 pgs) Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document # 60) Entered on 1/15/2026. (Hyden, Kara)
01/17/2026 001113	76	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)74 Order granting Highland's motion to compel production of audio recordings, transcripts, and related documents (related document 60) Entered on 1/15/2026.) No. of Notices: 0. Notice Date 01/17/2026. (Admin.)
01/23/2026 001117	77	(16 pgs) Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)
01/25/2026 001133	78	(18 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)77 Agreed Protective Order Concerning Subpoena to Third-Party Hunton Andrews Kurth LLP(RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 1/23/2026 (Ecker, C.)) No. of Notices: 0. Notice Date 01/25/2026. (Admin.)
01/26/2026 001151	79	(13 pgs) Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026 (Hyden, Kara)
01/26/2026 001164	80	(13 pgs) Order denying motion to stay pending appeal (related document # 33) Entered on 1/26/2026. (Hyden, Kara)
01/28/2026 001179	81	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)79 Memorandum of opinion (RE: related document(s)33 Motion to stay pending appeal filed by Counter-Claimant Patrick Hagaman

Case 3:26-cv-02664-S Document 12-8 Filed 10/21/26 Page 16 of 432 PageID 2422

Vol 5

		Daugherty, Defendant Patrick Hagaman Daugherty). Entered on 1/26/2026) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
01/28/2026 001192	82	(15 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)80 Order denying motion to stay pending appeal (related document 33) Entered on 1/26/2026.) No. of Notices: 0. Notice Date 01/28/2026. (Admin.)
02/09/2026 001207	84	(4 pgs) Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). (Annable, Zachery)
02/09/2026 001211	85	(7 pgs) Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)
02/11/2026 001218	86	(9 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)85 Order Approving Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP (RE: related document(s)59 Subpoena filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P., 84 Stipulation filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 2/9/2026 (Okafor, M.)) No. of Notices: 0. Notice Date 02/11/2026. (Admin.)
02/25/2026 001227	87	(3 pgs) Notice to take deposition of T.J. Liles-Tims filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P.. (Annable, Zachery)
02/27/2026 001230	88	(2 pgs) Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)
03/01/2026 001232	89	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)88 Order Resetting Trial Date (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Trial date set for 4/17/2026 at 09:00 AM at Dallas Judge Jernigan Ctrm. Entered on 2/27/2026 (Okafor, M.)) No. of Notices: 2. Notice Date 03/01/2026. (Admin.)

VOTS.

03/10/2026 001236	91	(3 pgs) Certificate of service re: *Stipulation as to the Authenticity of Documents Produced by Hunton Andrews & Kurth LLP* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)84 Stipulation by Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)59 Subpoena). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/17/2026 001239	93	(5 pgs) Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). (Annable, Zachery)
03/19/2026 001244	94	(8 pgs) Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).
03/20/2026 001252	95	(3 pgs) Certificate of service re: *[Proposed] Second Stipulated Scheduling Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)93 Stipulation by Highland Capital Management, L.P., Highland Capital Management, L.P. and Patrick Hagaman Daugherty. filed by Plaintiff Highland Capital Management, L.P., Counter-Defendant Highland Capital Management, L.P. (RE: related document(s)37 Order to set hearing, 88 Order to set hearing). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
03/21/2026 001255	96	(10 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)94 Order Approving Second Stipulated Scheduling Order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Hearing to be held on 4/17/2026 at 09:00 AM Dallas Judge Jernigan Ctrm for 1, Entered on 3/19/2026 (Okafor, M.) MODIFIED to correct hearing location on 3/20/2026 (mdo).) No. of Notices: 1. Notice Date 03/21/2026. (Admin.)
04/02/2026 001265	97	(8 pgs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)

Vol. 5

001273 04/02/2026	98	(8 pgs) Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)1 Complaint). (York, Andrew)
001281 04/08/2026	99	(9 pgs) Objection to (related document(s): 97 List (witness/exhibit/generic) filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) filed by Defendant Patrick Hagaman Daugherty. (York, Andrew)
001290 04/10/2026	100	(28 pgs) Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. (Annable, Zachery)
001318 04/13/2026	101	(28 pgs) Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). Entered on 4/13/2026 (Hyden, Kara)
001346 04/13/2026	102	(21 pgs) Brief in support filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)94 Order to set hearing). (York, Andrew)
001367 04/14/2026	103	(8 pgs) Amended Witness and Exhibit List filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)98 List (witness/exhibit/generic)). (York, Andrew)
001375 04/14/2026	104	(8 pgs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic)). (Annable, Zachery)
001303 04/15/2026	105	(1782 pgs; 95 docs) Amended Witness and Exhibit List *2nd* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)103 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-01 # 2 Exhibit PD-02 # 3 Exhibit PD-03 # 4 Exhibit PD-04 # 5 Exhibit PD-05 # 6 Exhibit PD-06 # 7 Exhibit PD-07 # 8 List of 20 Largest Creditors PD-08 # 9 Exhibit PD-09 # 10 Exhibit PD-10 # 11 Exhibit PD-11 # 12 Exhibit PD-12 # 13 Exhibit PD-13 # 14 Exhibit PD-14 # 15 Exhibit PD-16 # 16 Exhibit PD-16 # 17 List of 20 Largest Creditors PD-17 # 18 Exhibit PD-18 # 19 Exhibit PD-19 # 20 Exhibit PD-20 # 21 Exhibit PD-21 # 22 Exhibit PD-22 # 23 Exhibit PD-23 # 24 Exhibit PD-24 # 25 Exhibit PD-25 # 26 Exhibit PD-26 # 27 Exhibit PD-27 # 28 Exhibit PD-28 # 29 Exhibit PD-29 # 30 Exhibit PD-30 # 31 Exhibit PD-31 # 32 Exhibit PD-32 # 33 Exhibit PD-33 # 34 Exhibit PD-34 # 35 Exhibit PD-35 # 36 Exhibit PD-36 # 37 Exhibit PD-37 # 38 List of 20 Largest Creditors PD-38 # 39 List of 20 Largest Creditors PD-39 # 40 Exhibit PD-40 # 41 List of 20 Largest Creditors PD-41 # 42 Exhibit PD-42 # 43 Exhibit PD-43 # 44 Exhibit PD-44 # 45 Exhibit PD-45 # 46 Exhibit PD-46 # 47 Exhibit PD-47 # 48 Exhibit PD-48 # 49 Exhibit PD-49 # 50 Exhibit PD-50 # 51 Exhibit PD-51 # 52 Exhibit PD-52 # 53 Exhibit PD-53 # 54 Exhibit PD-54

Vol 5 001383		# 55 Exhibit PD-55 # 56 Exhibit PD-56 # 57 Exhibit PD-57 # 58 Exhibit PD-58 # 59 Exhibit PD-59 # 60 Exhibit PD-60 # 61 Exhibit PD-61 # 62 Exhibit PD-62 # 63 Exhibit PD-63 # 64 Exhibit PD-64 # 65 Exhibit PD-65 # 66 Exhibit PD-66 # 67 Exhibit PD-67 # 68 Exhibit PD-68 # 69 Exhibit PD-69 # 70 Exhibit PD-70 # 71 Exhibit PD-71 # 72 Exhibit PD-72 # 73 Exhibit PD-73 # 74 Exhibit PD-74 # 75 Exhibit PD-75 # 76 Exhibit PD-76 # 77 Exhibit PD-77 # 78 Exhibit PD-78 # 79 Exhibit PD-79 # 80 Exhibit PD-80 # 81 Exhibit PD-81 # 82 Exhibit PD-82 # 83 Exhibit PD-83 # 84 Exhibit PD-84 # 85 Exhibit PD-85 # 86 Exhibit PD-86 # 87 Exhibit PD-87 # 88 Exhibit PD-88 # 89 Exhibit PD-89 # 90 Exhibit PD-90 # 91 Exhibit PD-91 # 92 Exhibit PD-92 # 93 Exhibit PD-93 # 94 Exhibit PD-94) (York, Andrew)
001385	04/15/2026	106 (11 pgs) Joint Motion to file document under seal. *Exhibits* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (York, Andrew)
Vol. 6 001396 Thru Vol 7	04/15/2026	107 (696 pgs; 66 docs) Amended Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)97 List (witness/exhibit/generic), 104 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65) (Annable, Zachery)
Vol 7 002092	04/15/2026	108 (5 pgs) Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document # 106) Entered on 4/15/2026. (Okafor, M.)
002097	04/15/2026	109 SEALED document regarding: Exhibit 14 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital

Vol. 7

		Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	110	SEALED document regarding: Exhibit 21 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	111	SEALED document regarding: Exhibit 22 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	112	SEALED document regarding: Exhibit 23 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	113	SEALED document regarding: Exhibit 24 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	114	SEALED document regarding: Exhibit 25 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	115	SEALED document regarding: Exhibit 26 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026 002097	116	SEALED document regarding: Exhibit 27 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)

04/15/2026	117	SEALED document regarding: Exhibit 28 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	118	SEALED document regarding: Exhibit 35 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	119	SEALED document regarding: Exhibit 36 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	120	SEALED document regarding: Exhibit 37 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	121	SEALED document regarding: Exhibit 57 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	122	SEALED document regarding: Exhibit 61 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	123	SEALED document regarding: Exhibit 62 of Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026 per court order filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)108 Order on motion to seal). (Annable, Zachery)
04/15/2026	124	(30 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)101 Joint Pre-Trial order (RE: related document(s)1 Complaint filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff

		Highland Capital Management, L.P.). Entered on 4/13/2026) No. of Notices: 0. Notice Date 04/15/2026. (Admin.)
04/16/2026	126	(64 pgs; 5 docs) Support/supplemental document *Supplemental 2nd Amended Witness and Exhibit List* filed by Defendant Patrick Hagaman Daugherty, Counter-Claimant Patrick Hagaman Daugherty (RE: related document(s)105 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PD-95 # 2 Exhibit PD-96 # 3 Exhibit PD-97 # 4 Exhibit PD-98) (York, Andrew)
04/16/2026	127	(3 pgs) Certificate of service re: *[Proposed] Joint Pretrial Order* Filed by Claims Agent Kurtzman Carson Consultants, LLC d/b/a Verita Global (related document(s)100 Proposed pre-trial order filed by Plaintiff Highland Capital Management, L.P.. filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.). (Kass, Albert)
04/17/2026	128	(15 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 66) (Annable, Zachery)
04/17/2026	129	(7 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)108 Order granting Plaintiff Highland Capital Management, L.P.'s and Defendant Patrick Hagman Daugherty's motion to seal certain exhibits (related document 106) Entered on 4/15/2026. (Okafor, M.)) No. of Notices: 0. Notice Date 04/17/2026. (Admin.)
04/20/2026	130	(9 pgs; 2 docs) Witness and Exhibit List *(Highland Capital Management, L.P.'s Second Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026)* filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Attachments: # 1 Exhibit 67) (Annable, Zachery)
04/21/2026	132	(1 pg) Court admitted exhibits date of hearing 4/17/2026 (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). filed by Counter-Defendant Highland Capital Management, L.P., Plaintiff Highland Capital Management, L.P.) (Noble, Nicholas)
05/13/2026	133	(1 pg) Request for Transcript regarding a hearing held on 4/17/2026. The requested turn-around time is hourly. filed by Plaintiff Highland Capital Management, L.P.. (Hayward, Melissa)

Vol. 8 05/18/2026 002220	135	(327 pgs) Transcript regarding Hearing Held 4/17/26 RE: 1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty.. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/17/2026. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Cindy Sumner, Telephone number 2148027196. (RE: related document(s) 131 Hearing held on 4/17/2026. **Matter taken under advisement; each side to file proposed Findings of Fact and Conclusions of Law no later than June 5, 2026.** (RE: related document(s)1 Adversary case 25-03055. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount $350 (Attachments: # 1 Exhibit A # 2 Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest).)). Transcript to be made available to the public on 08/17/2026. (Sumner, Cindy)
Vol. 9 06/05/2026 002555	136	(47 pgs) Proposed findings of fact and conclusions of law filed by Plaintiff Highland Capital Management, L.P. (RE: related document(s)1 Complaint). (Annable, Zachery)
06/05/2026 002602	137	(19 pgs) Proposed findings of fact and conclusions of law filed by Defendant Patrick Hagaman Daugherty (RE: related document(s) 131 Hearing held). (York, Andrew)
002621 07/24/2026	138	(2 pgs) Judgment. Entered on 7/24/2026 (Grandstaff, Travis)
07/24/2026 002623	139	(25 pgs) Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026 (Grandstaff, Travis)
07/26/2026 002648	140	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)138 Judgment. Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
07/26/2026 002652	141	(27 pgs) BNC certificate of mailing - PDF document. (RE: related document(s)139 Memorandum of opinion (RE: related document(s)138 Judgment). Entered on 7/24/2026) No. of Notices: 0. Notice Date 07/26/2026. (Admin.)
08/07/2026 002679	142	(7 pgs; 2 docs) Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)(York, Andrew)
08/11/2026 002686	144	(9 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation

		due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Attachments: # 1 Service List) (Whitaker, Sheniqua)
08/11/2026	145	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/11/2026	146	(4 pgs) DISTRICT COURT Notice of docketing notice of appeal. Civil Action Number: 3:26-cv-02664-S. (RE: related document(s)142 Notice of appeal . Fee Amount $298 filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2026	147	(4 pgs) BNC certificate of mailing. (RE: related document(s)145 Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)142 Notice of appeal . filed by Defendant Patrick Hagaman Daugherty (RE: related document(s)138 Judgment). Appellant Designation due by 08/21/2026. (Attachments: # 1 Exhibit A))) No. of Notices: 0. Notice Date 08/13/2026. (Admin.)

Reservation of Rights

Daugherty expressly reserves the right to amend or supplement this designation and/or to object, or otherwise supplement or move to strike or modify, some or all of any designations filed by any other party to this appeal. This filing is made expressly subject to, and without waiver of, any and all rights, remedies, challenges and objections.

Respectfully submitted this 2nd day of September, 2026,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 240033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1845 Woodall Rodgers Fwy., Suite 1300
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 2nd day of September 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
J. Reid Burley (Texas Bar No. 24109675)
Drake M. Rayshell (Texas Bar No. 24118507)
GRAY REED
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054 (BWO)
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff,	§	
v.	§	Adversary No. 25-03055
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PATRICK DAUGHERTY'S FIRST SUPPLEMENTAL WITNESS AND EXHIBIT LIST TO PATRICK DAUGHERTY'S SECOND AMENDED WITNESS AND EXHIBIT LIST [DOCKET NO. 105]

Defendant and Counter-Plaintiff Patrick Daugherty submits the following supplemental witness and exhibit list with respect to Daugherty's Second Amended Witness and Exhibit List [Docket No. 105] List for Trial scheduled on April 17, 2026, at 9:00 a.m.

Witnesses

1. Patrick Daugherty
2. James Seery
3. T.J. Liles-Tims
4. Any witnesses called or designated by any other party;
5. Any witnesses necessary for impeachment, depending on the witnesses and evidence presented by other parties; and
6. Any witnesses necessary for rebuttal, depending on the witnesses and evidence presented by the parties.

Daugherty reserves the right to cross-examine any witness called by any other party.

Supplemental Exhibits[2]

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-95	(PDADV_018605)	
PD-96	(PDADV_018651)	
PD-97	(PDADV_018652)	
PD-98	(PDADV_018864)	
PD-	Any document entered or filed in the Debtor's chapter 11 bankruptcy case, including any exhibits thereto	

[2] The exhibits identified herein supplent the witness and exhibit list filed with the Bankruptcy Court at Docket No. 105 on April 15, 2026.

EXHIBIT NUMBER	DESCRIPTION	NOTES
PD-	Any exhibits identified by or offered by any other party at the hearing	
PD-	Any exhibits offered for impeachment and/or rebuttal purposes	

Daugherty reserves the right to further supplement or amend his Second Amended Witness and Exhibit List any time prior to the trial. This First Supplemental Witness and Exhibit List is not intended to limit Daugherty at the hearing or to imply that Daugherty may not seek introduction of evidence that is not on this list. Daugherty reserves the right to use any of the exhibits designated by any other party in this case.

Dated: April 16, 2026.

Respectfully submitted,

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing instrument was served on all Parties or counsel of record herein on this 16th day of April 2026, via the CM/ECF system and/or email.

/s/ Andrew K. York
ANDREW K. YORK

[redacted]

From: Hough, Steven C.
Sent: Monday, January 14, 2013 8:03 PM
To: 'TDameris@hcmlp.com'
Cc: 'TSurgent@hcmlp.com'; Abrams, Kevin
Subject: RE: HERA
Attachments: HERA (1st) Amendment (Walia-related) to Second Amended Restated LLC Agreement (00236187-5).DOC; 1st Am Blackline WSComparison_00236187-00236187.doc; HERA (2d) Amendment (indemnification) to Second Amended Restated LLC Agreement (00236453-2).DOC; 2d Am Blackline WSComparison_00236453-00236453.doc; HERA Member Consent (2d) (indemnification) (00236456-2).DOC; 2d Am Member Consent Blackline WSComparison_00236456-00236456.doc; HERA (3d) Amendment (amendment) to Second Amended Restated LLC Agreement (00236454-2).DOC; 3d Am Blackline WSComparison_00236454-00236454.doc; HERA - Written Consent (3d) Approving Transfer and Amendment Amendment (00236464-2).DOC; 3d Am Board Consent Blackline WSComparison_00236464-00236464.doc; HERA Member Consent (3d) (transfer and amendment) (00236465-2).DOC; 3d Am Member Consent Blackline WSComparison_00236465-00236465.doc

Ted:

Consistent with our telephone conversations earlier today, attached are revised drafts of the amendment papers for the proposed HERA buyout and blacklines comparing these documents to the versions that I circulated on Friday night.

Sincerely,

Steven C. Hough*
Abrams & Bayliss LLP
20 Montchanin Road, Suite 200
Wilmington, DE 19807
Telephone: (302) 778-1004
Facsimile: (302) 261-0294
E-Mail: Hough@AbramsBayliss.com
* Admitted in New York, but not admitted in Delaware

The information contained in this transmission is confidential, proprietary or privileged, may be subject to protection under the law, and is transmitted for the sole use of the intended recipient(s). Any review, dissemination, copying or use of this communication by or to anyone other than the intended recipient(s), without our express permission, is unauthorized. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please notify us immediately by telephone or return e-mail and delete or destroy this communication immediately. To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: Hough, Steven C.
Sent: Friday, January 11, 2013 11:24 PM
To: 'TSurgent@hcmlp.com'; 'TDameris@hcmlp.com'
Cc: Abrams, Kevin
Subject: RE: HERA

Gentlemen:

DEFENDANT'S EXHIBIT
95
25-03055

Our comments on the proposed HERA buyout papers are reflected in the attached documents. Please let us know if you have any questions or would like to discuss further.

Sincerely,

Steven C. Hough*
Abrams & Bayliss LLP
20 Montchanin Road, Suite 200
Wilmington, DE 19807
Telephone: (302) 778-1004
Facsimile: (302) 261-0294
E-Mail: Hough@AbramsBayliss.com
* Admitted in New York, but not admitted in Delaware

The information contained in this transmission is confidential, proprietary or privileged, may be subject to protection under the law, and is transmitted for the sole use of the intended recipient(s). Any review, dissemination, copying or use of this communication by or to anyone other than the intended recipient(s), without our express permission, is unauthorized. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please notify us immediately by telephone or return e-mail and delete or destroy this communication immediately. To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

-----Original Message-----
From: Abrams, Kevin
Sent: Friday, January 11, 2013 1:03 PM
To: 'TDameris@hcmlp.com'
Cc: 'TSurgent@hcmlp.com'; Hough, Steven C.
Subject: Re: HERA

Fyi--we are shooting to circulate our markups by later today. We see that certain steps are different than what we expected and we will let you know if we need a call to clarify anything. We are trying to use the structure in the papers that we received as much as possible.

Kevin G. Abrams
Abrams & Bayliss LLP
20 Montchanin Road
Suite 200
Wilmington, DE 19807
Main: 302-778-1000
Direct: 302-778-1002
Facsimile: 302-778-1001
Cell: 302-547-8000
E-Mail: abrams@abramsbayliss.com<mailto:abrams@abramsbayliss.com>

The information contained in this transmission is confidential, proprietary or privileged, may be subject to protection under the law, and is transmitted for the sole use of the intended recipient(s). Any review, dissemination, copying or use of this communication by or to anyone other than the intended recipient(s), without our express permission, is unauthorized. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please notify us immediately by telephone or return e-mail and delete or destroy this communication immediately. To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

----- Original Message -----
From: Ted Dameris <TDameris@hcmlp.com>
To: Abrams, Kevin
Cc: Thomas Surgent <TSurgent@hcmlp.com>
Sent: Thu Jan 10 23:06:47 2013
Subject: Re: HERA

Perfect. Thx.

On Jan 10, 2013, at 9:42 PM, "Abrams, Kevin" <abrams@AbramsBayliss.com> wrote:

> We are trying to get comments to you by late tomorrow afternoon. I will have a better idea in the morning and will give you a status report.
>
> Kevin G. Abrams
> Abrams & Bayliss LLP
> 20 Montchanin Road
> Suite 200
> Wilmington, DE 19807
> Main: 302-778-1000
> Direct: 302-778-1002
> Facsimile: 302-778-1001
> Cell: 302-547-8000
> E-Mail: abrams@abramsbayliss.com<mailto:abrams@abramsbayliss.com>
>
> The information contained in this transmission is confidential, proprietary or privileged, may be subject to protection under the law, and is transmitted for the sole use of the intended recipient(s). Any review, dissemination, copying or use of this communication by or to anyone other than the intended recipient(s), without our express permission, is unauthorized. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please notify us immediately by telephone or return e-mail and delete or destroy this communication immediately. To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.
>
>
>
>
> ----- Original Message -----
> From: Ted Dameris <TDameris@hcmlp.com>
> To: Abrams, Kevin
> Cc: Thomas Surgent <TSurgent@hcmlp.com>
> Sent: Thu Jan 10 22:23:20 2013
> Subject: HERA
>
>
> Do you have an estimate on a timeframe to get back to us after your review of the documents?
>
> Dondero wants to get an estimate on timing so that he can prepare the necessary funds.
>
>
> _____
>

> DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.
>
>

AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THIS AMENDMENT (this "***Amendment***") to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the "***Company***") dated as of February 16, 2012 (the "***Company Agreement***") is entered into as of January __, 2013 (the "***Effective Date***") by and among the members of the board of directors of the Company (the "***Board***"). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Section 5.1 of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement.

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

> Section 5.1 General. The Company shall be managed by a Board of Directors (the "***Board***"), which shall at all times consist of five members, consisting of the following individuals:
>
> Patrick Boyce
> John Honis
> William L. Britain
> Ted Dameris
> Scott Ellington
>
> The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member shall cease to hold Series A Preferred Units or until such member's death, resignation or removal from ~~by~~the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by holder(s) of Series A Preferred Units elected by a majority of the

remaining members of the Board, or if no such majority decision can be reached, by the holder(s) of the greatest number of Series A Preferred Units who are not then currently a member of the Board and who are willing to serve on the Board, or if no Series A Preferred Units remain outstanding, as determined by a majority of the remaining members of the Board.

2. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

3. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

_____
Patrick Boyce

_____
John Honis

_____
William L. Britain

_____
Ted Dameris

_____
Scott Ellington

Document comparison by Workshare Professional on Monday, January 14, 2013 7:23:33 PM

Input:	
Document 1 ID	file://F:\wdox\clients\729\00\~VER\4\00236187.DOC
Description	00236187
Document 2 ID	file://F:\wdox\clients\729\00\00236187.DOC
Description	00236187
Rendering set	standard

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

Statistics:	
	Count
Insertions	2
Deletions	1
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	3

SECOND AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THIS SECOND AMENDMENT (this "***Amendment***") to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the "***Company***") dated as of February 16, 2012 (the "***Company Agreement***"), as amended, is entered into as of January __, 2013 (the "***Effective Date***") by and among the members of the board of directors of the Company (the "***Board***"). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Article VIII of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, a majority-in-interest of the Company's Series A Preferred Units have consented to and ratified the Company adopting the within Amendment.

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Article VIII of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Indemnification and Liability. (a) To the maximum extent permitted by applicable law, no current or future member of the Board, no current or future officer of the Company nor the Initial Member (each an "Indemnitee") shall be liable to the Company or any other third party (i) for mistakes of judgment, (ii) for any act or omission suffered or taken by it, (iii) for breach of fiduciary duty owed to the Company and/or its members or (iv) for losses due to any such mistake, action or inaction, or breach of fiduciary duty.

(b) To the fullest extent permitted by applicable law as the same exists or may hereafter be amended, the Company shall indemnify and hold harmless, and advance expenses including attorneys' fees, to an Indemnitee against all liabilities and claims against each such person arising from such person's performance of his duties in conformance with the terms of this Agreement. Notwithstanding the preceding sentence, the Company shall be required to indemnify, or advance expenses to, an Indemnitee in

connection with a proceeding (or part thereof) commenced by such Indemnitee only if the commencement of such proceeding (or part thereof) by the Indemnitee was authorized by the Board.

(c) An Indemnitee may consult with legal counsel or accountants selected by the Board and/or the Initial Member and, to the maximum extent permitted by applicable law, any action or omission suffered or taken in good faith in reliance and in accordance with the written opinion or advice of any such counsel or accountants (provided such counsel or accountants have been selected with reasonable care) shall be fully protected and justified with respect to the action or omission so suffered or taken.

(d) The rights conferred upon Indemnitees in this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a member of the Board, an officer of the Company or the Initial Member and shall inure to the benefit of the Indemnitee's heirs, executors, administrators and successors. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an Indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any liability or claim involving any occurrence or any alleged occurrence of any action or omission that took place prior to such amendment or repeal.

2. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

3. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

_____
Patrick Boyce

_____
John Honis

_____
William L. Britain

_____
Ted Dameris

_____
Scott Ellington

Document comparison by Workshare Professional on Monday, January 14, 2013 7:28:25 PM

Input:	
Document 1 ID	file://F:\wdox\clients\729\00\~VER\1\00236453.DOC
Description	00236453
Document 2 ID	file://F:\wdox\clients\729\00\00236453.DOC
Description	00236453
Rendering set	standard

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

Statistics:	
	Count
Insertions	6
Deletions	0
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	6

WRITTEN CONSENT
OF HOLDER OF SERIES A PREFERRED UNITS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THE UNDERSIGNED holder of Series A Preferred Units of Highland Employee Retention Assets LLC hereby consents to and ratifies the below amendment to the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the "***Company Agreement***"), as amended:

Article VIII of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Indemnification and Liability. (a) To the maximum extent permitted by applicable law, no current or future member of the Board, no current or future officer of the Company nor the Initial Member (each an "Indemnitee") shall be liable to the Company or any other third party (i) for mistakes of judgment, (ii) for any act or omission suffered or taken by it, (iii) for breach of fiduciary duty owed to the Company and/or its members or (iv) for losses due to any such mistake, action or inaction, or breach of fiduciary duty.

(b) To the fullest extent permitted by applicable law as the same exists or may hereafter be amended, the Company shall indemnify and hold harmless, and advance expenses including attorneys' fees, to an Indemnitee against all liabilities and claims against each such person arising from such person's performance of his duties in conformance with the terms of this Agreement. Notwithstanding the preceding sentence, the Company shall be required to indemnify, or advance expenses to, an Indemnitee in connection with a proceeding (or part thereof) commenced by such Indemnitee only if the commencement of such proceeding (or part thereof) by the Indemnitee was authorized by the Board.

(c) An Indemnitee may consult with legal counsel or accountants selected by the Board and/or the Initial Member and, to the maximum extent permitted by applicable law, any action or omission suffered or taken in good faith in reliance and in accordance with the written opinion or advice of any such counsel or accountants (provided such counsel or accountants have been selected with reasonable care) shall be fully protected and justified with respect to the action or omission so suffered or taken.

(d) The rights conferred upon Indemnitees in this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a member of the Board, an officer of the Company or the Initial Member and shall inure to the benefit of the Indemnitee's heirs, executors, administrators and successors. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an Indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any liability or claim involving any occurrence or any alleged occurrence of any action or omission that took place prior to such amendment or repeal.

IN WITNESS WHEREOF, the undersigned has executed this Consent to be effective as of the date set forth below.

HOLDER OF SERIES A PREFERRED UNITS:

Name:_____
By:_____
Number of Series A Preferred Units Held:_____
Dated:_____

Document comparison by Workshare Professional on Monday, January 14, 2013 7:36:24 PM

Input:	
Document 1 ID	file://F:\wdox\clients\729\00\~VER\1\00236456.DOC
Description	00236456
Document 2 ID	file://F:\wdox\clients\729\00\00236456.DOC
Description	00236456
Rendering set	standard

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

Statistics:	
	Count
Insertions	5
Deletions	0
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	5

THIRD AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THIS THIRD AMENDMENT (this "***Amendment***") to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the "***Company***") dated as of February 16, 2012 (the "***Company Agreement***"), as amended, is entered into as of January __, 2013 (the "***Effective Date***") by and among the members of the board of directors of the Company (the "***Board***"). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend ~~Section~~Sections 5.1 and 5.2 of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, a majority-in-interest of the Company's Series A Preferred Units have consented to and ratified the Company adopting the within Amendment;

WHEREAS, the holders of a majority-in-interest of the Company's Series A Preferred Units have accepted [BUYER'S] Offer to Purchase dated [January ___, 2013].

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

> Section 5.1 General. The Company shall be managed by a Board of Directors (the "***Board***"), which shall at all times consist of five members, consisting of the following individuals:
>
> Patrick Boyce
> John Honis
> William L. Britain
> Ted Dameris
> Scott Ellington
>
> The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to

bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member's death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by majority vote of the remaining members of the Board, or if no such majority decision can be reached, as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

2. ~~1.~~ Section 5.2 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.2 Delegation of Powers of the Board. (a) Subject to Sections 5.2(b) and 5.2(c) and ARTICLE XI hereof, the Board shall have the exclusive and complete authority, acting without the consent or approval of, or notice to, the Member and in the Board's sole and absolute discretion, to operate the Company and its business and to make all determinations or elections or to consent to any matter otherwise described in this Agreement. Neither the Member nor any other unitholder shall have the authority to remove any member of the Board.

(b) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company shall not, and shall not have power or authority and shall not be authorized to, and the Board shall not, and shall not have power or authority and shall not be authorized to cause the Company to, take any of the following actions without the prior affirmative vote or written consent of at least 75% of the members of the Board:

(i) dissolve, wind-up or liquidate, in whole or in part, or cause or consent to the dissolution, winding up or liquidation, in whole or in part, of the Company;

(ii) be a party to any merger or consolidation or sell, transfer, assign, convey or lease any asset of the Company, or cause or consent to any merger or consolidation or sale, transfer, assignment, conveyance or lease of any assets of the Company;

(iii) directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity, or cause the Company to directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity;

(iv) incur or assume any indebtedness or obligations except for liabilities under Section 3.3, or cause the Company, to incur or assume any indebtedness or obligations except for liabilities under Section 3.3; or

(v) take any Bankruptcy Action with respect to the Company, or take, cause or consent to any Bankruptcy Action with respect to the Company.

(c) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company may amend, alter, change or repeal any of the provisions of this Agreement (including, without limitation, the last sentence of Section 5.2(a) hereof) only upon either the prior affirmative vote or written consent of at least 75% of the members of the Board or as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

3. ~~2.~~ This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

4. ~~3.~~ Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

_____
Patrick Boyce

_____
John Honis

_____
William L. Britain

_____
Ted Dameris

_____
Scott Ellington

Document comparison by Workshare Professional on Monday, January 14, 2013 7:46:33 PM

Input:	
Document 1 ID	file://F:\wdox\clients\729\00\~VER\1\00236454.DOC
Description	00236454
Document 2 ID	file://F:\wdox\clients\729\00\00236454.DOC
Description	00236454
Rendering set	standard

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

Statistics:	
	Count
Insertions	14
Deletions	4
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	18

WRITTEN CONSENT
OF BOARD OF DIRECTORS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

Effective as of January __, 2013

THE UNDERSIGNED members of the board of directors (the "***Board***") of Highland Employee Retention Assets LLC, a Delaware limited liability company (the "***Company***"), acting pursuant to the Delaware Limited Liability Company Act and the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the "***Company Agreement***"), as amended, do hereby adopt the following resolutions by written consent:

WHEREAS, the Company desires to amend ~~Section~~Sections 5.1 and 5.2 of the Company Agreement in the form previously reviewed by the undersigned (the "***Amendment***");

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the affirmative vote or written consent of at least 75% of the members of the Board is required in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, pursuant to Article IX of the Company Agreement, the prior written consent of the Board is required to assign Series A Preferred Units of the Company;

WHEREAS, a majority-in-interest of the Company's Series A Preferred Units have consented to and ratified the Company adopting the Amendment;

WHEREAS, the holders of a majority-in-interest of the Company's Series A Preferred Units have accepted [BUYER'S] Offer to Purchase dated [January ___, 2013] (the "***Offer***");

WHEREAS, a majority-in-interest of the Company's Series A Preferred Units have consented to and ratified the assignment of Series A Preferred Units of the Company to [BUYER] pursuant to the Offer to Purchase dated [January ___, 2013] (the "***Assignment***").

NOW, THEREFORE, BE IT

RESOLVED, that, subject to and conditioned upon a majority-in-interest of the Company's Series A Preferred Units having consented to and ratified the Amendment and having accepted the Offer, the Board approves the proposed Amendment;

RESOLVED FURTHER, that, subject to and conditioned upon a majority-in-interest of the Company's Series A Preferred Units having consented to and ratified the Assignment and having accepted the Offer, the Board approves the Assignment;

RESOLVED FURTHER, that the Company's directors be, and they hereby are, authorized, empowered and directed for, in the Company's name and behalf, to do and perform all acts and deeds, to execute and deliver all documents, instruments and other

agreements, to waive any and all conditions and do all things necessary or helpful to carry out and comply with the terms and provisions of the foregoing resolutions; and that all acts and deeds of the directors and agents on behalf of the Company prior to the date hereof shall be, and they hereby are, in all respects, ratified, approved, confirmed and adopted as the Company's acts and deeds;

RESOLVED FURTHER, that this authorization shall remain in effect until further written notice from the Company.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned have executed this Consent to be effective as of the date first set forth above.

DIRECTORS:

_____
Patrick Boyce

_____
John Honis

_____
William L. Britain

_____
Ted Dameris

_____
Scott Ellington

Document comparison by Workshare Professional on Monday, January 14, 2013 7:49:28 PM

Input:	
Document 1 ID	file://F:\wdox\clients\729\00\~VER\1\00236464.DOC
Description	00236464
Document 2 ID	file://F:\wdox\clients\729\00\00236464.DOC
Description	00236464
Rendering set	standard

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

Statistics:	
	Count
Insertions	1
Deletions	1
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	2

WRITTEN CONSENT
OF HOLDER OF SERIES A PREFERRED UNITS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THE UNDERSIGNED holder of Series A Preferred Units of Highland Employee Retention Assets LLC hereby consents to and ratifies the below amendment to the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the "***Company Agreement***"), as amended:

Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.1 General. The Company shall be managed by a Board of Directors (the "***Board***"), which shall at all times consist of five members, consisting of the following individuals:

Patrick Boyce
John Honis
William L. Britain
Ted Dameris
Scott Ellington

The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member's death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by majority vote of the remaining members of the Board, or if no such majority decision can be reached, as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

Section 5.2 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.2 Delegation of Powers of the Board. (a) Subject to Sections 5.2(b) and 5.2(c) and ARTICLE XI hereof, the Board shall have the exclusive and complete authority, acting without the consent or approval of, or notice to, the Member and in

the Board's sole and absolute discretion, to operate the Company and its business and to make all determinations or elections or to consent to any matter otherwise described in this Agreement. Neither the Member nor any other unitholder shall have the authority to remove any member of the Board.

(b) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company shall not, and shall not have power or authority and shall not be authorized to, and the Board shall not, and shall not have power or authority and shall not be authorized to cause the Company to, take any of the following actions without the prior affirmative vote or written consent of at least 75% of the members of the Board:

(i) dissolve, wind-up or liquidate, in whole or in part, or cause or consent to the dissolution, winding up or liquidation, in whole or in part, of the Company;

(ii) be a party to any merger or consolidation or sell, transfer, assign, convey or lease any asset of the Company, or cause or consent to any merger or consolidation or sale, transfer, assignment, conveyance or lease of any assets of the Company;

(iii) directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity, or cause the Company to directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity;

(iv) incur or assume any indebtedness or obligations except for liabilities under Section 3.3, or cause the Company, to incur or assume any indebtedness or obligations except for liabilities under Section 3.3; or

(v) take any Bankruptcy Action with respect to the Company, or take, cause or consent to any Bankruptcy Action with respect to the Company.

(c) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the

Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company may amend, alter, change or repeal any of the provisions of this Agreement (including, without limitation, the last sentence of Section 5.2(a) hereof) only upon either the prior affirmative vote or written consent of at least 75% of the members of the Board or as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

THE UNDERSIGNED further consents to and ratifies the Board's approval of the assignment of Series A Preferred Units of the Company to [BUYER] pursuant to the Offer to Purchase dated [January ___, 2013].

IN WITNESS WHEREOF, the undersigned has executed this Consent to be effective as of the date set forth below.

HOLDER OF SERIES A PREFERRED UNITS:

Name:_____
By:_____
Number of Series A Preferred Units Held:_____
Dated:_____

Document comparison by Workshare Professional on Monday, January 14, 2013 7:57:06 PM

Input:	
Document 1 ID	file://F:\wdox\clients\729\00\~VER\1\00236465.DOC
Description	00236465
Document 2 ID	file://F:\wdox\clients\729\00\00236465.DOC
Description	00236465
Rendering set	standard

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

Statistics:	
	Count
Insertions	9
Deletions	0
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	9

WRITTEN CONSENT
OF BOARD OF DIRECTORS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

Effective as of January __, 2013

THE UNDERSIGNED members of the board of directors (the "***Board***") of Highland Employee Retention Assets LLC, a Delaware limited liability company (the "***Company***"), acting pursuant to the Delaware Limited Liability Company Act and the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the "***Company Agreement***"), as amended, do hereby adopt the following resolutions by written consent:

WHEREAS, the Company desires to amend Sections 5.1 and 5.2 of the Company Agreement in the form previously reviewed by the undersigned (the "***Amendment***");

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the affirmative vote or written consent of at least 75% of the members of the Board is required in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, pursuant to Article IX of the Company Agreement, the prior written consent of the Board is required to assign Series A Preferred Units of the Company;

WHEREAS, a majority-in-interest of the Company's Series A Preferred Units have consented to and ratified the Company adopting the Amendment;

WHEREAS, the holders of a majority-in-interest of the Company's Series A Preferred Units have accepted [BUYER'S] Offer to Purchase dated [January ___, 2013] (the "***Offer***");

WHEREAS, a majority-in-interest of the Company's Series A Preferred Units have consented to and ratified the assignment of Series A Preferred Units of the Company to [BUYER] pursuant to the Offer to Purchase dated [January ___, 2013] (the "***Assignment***").

NOW, THEREFORE, BE IT

RESOLVED, that, subject to and conditioned upon a majority-in-interest of the Company's Series A Preferred Units having consented to and ratified the Amendment and having accepted the Offer, the Board approves the proposed Amendment;

RESOLVED FURTHER, that, subject to and conditioned upon a majority-in-interest of the Company's Series A Preferred Units having consented to and ratified the Assignment and having accepted the Offer, the Board approves the Assignment;

RESOLVED FURTHER, that the Company's directors be, and they hereby are, authorized, empowered and directed for, in the Company's name and behalf, to do and perform all acts and deeds, to execute and deliver all documents, instruments and other

agreements, to waive any and all conditions and do all things necessary or helpful to carry out and comply with the terms and provisions of the foregoing resolutions; and that all acts and deeds of the directors and agents on behalf of the Company prior to the date hereof shall be, and they hereby are, in all respects, ratified, approved, confirmed and adopted as the Company's acts and deeds;

RESOLVED FURTHER, that this authorization shall remain in effect until further written notice from the Company.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned have executed this Consent to be effective as of the date first set forth above.

DIRECTORS:

_____
Patrick Boyce

_____
John Honis

_____
William L. Britain

_____
Ted Dameris

_____
Scott Ellington

AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THIS AMENDMENT (this "***Amendment***") to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the "***Company***") dated as of February 16, 2012 (the "***Company Agreement***") is entered into as of January __, 2013 (the "***Effective Date***") by and among the members of the board of directors of the Company (the "***Board***"). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Section 5.1 of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement.

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

> Section 5.1 General. The Company shall be managed by a Board of Directors (the "***Board***"), which shall at all times consist of five members, consisting of the following individuals:
>
> Patrick Boyce
> John Honis
> William L. Britain
> Ted Dameris
> Scott Ellington
>
> The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member shall cease to hold Series A Preferred Units or until such member's death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by holder(s) of Series A Preferred Units elected by a majority of the

remaining members of the Board, or if no such majority decision can be reached, by the holder(s) of the greatest number of Series A Preferred Units who are not then currently a member of the Board and who are willing to serve on the Board, or if no Series A Preferred Units remain outstanding, as determined by a majority of the remaining members of the Board.

2. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

3. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

_____
Patrick Boyce

_____
John Honis

_____
William L. Britain

_____
Ted Dameris

_____
Scott Ellington

SECOND AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THIS SECOND AMENDMENT (this "***Amendment***") to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the "***Company***") dated as of February 16, 2012 (the "***Company Agreement***"), as amended, is entered into as of January __, 2013 (the "***Effective Date***") by and among the members of the board of directors of the Company (the "***Board***"). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Article VIII of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, a majority-in-interest of the Company's Series A Preferred Units have consented to and ratified the Company adopting the within Amendment.

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Article VIII of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Indemnification and Liability. (a) To the maximum extent permitted by applicable law, no current or future member of the Board, no current or future officer of the Company nor the Initial Member (each an "Indemnitee") shall be liable to the Company or any other third party (i) for mistakes of judgment, (ii) for any act or omission suffered or taken by it, (iii) for breach of fiduciary duty owed to the Company and/or its members or (iv) for losses due to any such mistake, action or inaction, or breach of fiduciary duty.

(b) To the fullest extent permitted by applicable law as the same exists or may hereafter be amended, the Company shall indemnify and hold harmless, and advance expenses including attorneys' fees, to an Indemnitee against all liabilities and claims against each such person arising from such person's performance of his duties in conformance with the terms of this Agreement. Notwithstanding the preceding sentence, the Company shall be required to indemnify, or advance expenses to, an Indemnitee in

connection with a proceeding (or part thereof) commenced by such Indemnitee only if the commencement of such proceeding (or part thereof) by the Indemnitee was authorized by the Board.

(c) An Indemnitee may consult with legal counsel or accountants selected by the Board and/or the Initial Member and, to the maximum extent permitted by applicable law, any action or omission suffered or taken in good faith in reliance and in accordance with the written opinion or advice of any such counsel or accountants (provided such counsel or accountants have been selected with reasonable care) shall be fully protected and justified with respect to the action or omission so suffered or taken.

(d) The rights conferred upon Indemnitees in this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a member of the Board, an officer of the Company or the Initial Member and shall inure to the benefit of the Indemnitee's heirs, executors, administrators and successors. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an Indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any liability or claim involving any occurrence or any alleged occurrence of any action or omission that took place prior to such amendment or repeal.

2. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

3. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

_____
Patrick Boyce

_____
John Honis

_____
William L. Britain

_____
Ted Dameris

_____
Scott Ellington

THIRD AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THIS THIRD AMENDMENT (this "***Amendment***") to the Second Amended and Restated Limited Liability Company Agreement of HIGHLAND EMPLOYEE RETENTION ASSETS LLC (the "***Company***") dated as of February 16, 2012 (the "***Company Agreement***"), as amended, is entered into as of January __, 2013 (the "***Effective Date***") by and among the members of the board of directors of the Company (the "***Board***"). All capitalized terms used but not defined in this Amendment and defined in the Company Agreement shall have the meanings ascribed to them in the Company Agreement.

WHEREAS, the Company desires to amend Sections 5.1 and 5.2 of the Company Agreement;

WHEREAS, pursuant to Section 5.2(b)(iv) of the Company Agreement, the Company requires the affirmative vote or written consent of at least 75% of the members of the Board in order to amend, alter, change or repeal any of the provisions of the Company Agreement;

WHEREAS, a majority-in-interest of the Company's Series A Preferred Units have consented to and ratified the Company adopting the within Amendment;

WHEREAS, the holders of a majority-in-interest of the Company's Series A Preferred Units have accepted [BUYER'S] Offer to Purchase dated [January ___, 2013].

NOW, THEREFORE, the Company amends the Company Agreement as follows as of the Effective Date:

1. Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

> Section 5.1 General. The Company shall be managed by a Board of Directors (the "***Board***"), which shall at all times consist of five members, consisting of the following individuals:
>
> Patrick Boyce
> John Honis
> William L. Britain
> Ted Dameris
> Scott Ellington
>
> The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to

bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member's death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by majority vote of the remaining members of the Board, or if no such majority decision can be reached, as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

2. Section 5.2 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.2 Delegation of Powers of the Board. (a) Subject to Sections 5.2(b) and 5.2(c) and ARTICLE XI hereof, the Board shall have the exclusive and complete authority, acting without the consent or approval of, or notice to, the Member and in the Board's sole and absolute discretion, to operate the Company and its business and to make all determinations or elections or to consent to any matter otherwise described in this Agreement. Neither the Member nor any other unitholder shall have the authority to remove any member of the Board.

(b) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company shall not, and shall not have power or authority and shall not be authorized to, and the Board shall not, and shall not have power or authority and shall not be authorized to cause the Company to, take any of the following actions without the prior affirmative vote or written consent of at least 75% of the members of the Board:

(i) dissolve, wind-up or liquidate, in whole or in part, or cause or consent to the dissolution, winding up or liquidation, in whole or in part, of the Company;

(ii) be a party to any merger or consolidation or sell, transfer, assign, convey or lease any asset of the Company, or cause or consent to any merger or consolidation or sale, transfer, assignment, conveyance or lease of any assets of the Company;

(iii) directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity, or cause the Company to directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity;

(iv) incur or assume any indebtedness or obligations except for liabilities under Section 3.3, or cause the Company, to incur or assume any indebtedness or obligations except for liabilities under Section 3.3; or

(v) take any Bankruptcy Action with respect to the Company, or take, cause or consent to any Bankruptcy Action with respect to the Company.

(c) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company may amend, alter, change or repeal any of the provisions of this Agreement (including, without limitation, the last sentence of Section 5.2(a) hereof) only upon either the prior affirmative vote or written consent of at least 75% of the members of the Board or as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

3. This Amendment may be executed in multiple counterparts, each of which, when assembled to include an original, facsimile or scanned signature for each party contemplated to sign this Amendment, will constitute a complete and fully executed document. All such fully executed original, facsimile or scanned counterparts will collectively constitute a single document.

4. Except as modified hereby, the Company Agreement shall remain in full effect and the Amendment shall be binding upon the Company and its successors and assigns. If any inconsistency exists or arises between the terms of the Amendment and the terms of the Company Agreement, the Amendment shall prevail.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first set forth above.

DIRECTORS:

_____
Patrick Boyce

_____
John Honis

_____
William L. Britain

_____
Ted Dameris

_____
Scott Ellington

WRITTEN CONSENT
OF HOLDER OF SERIES A PREFERRED UNITS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THE UNDERSIGNED holder of Series A Preferred Units of Highland Employee Retention Assets LLC hereby consents to and ratifies the below amendment to the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the "***Company Agreement***"), as amended:

Article VIII of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Indemnification and Liability. (a) To the maximum extent permitted by applicable law, no current or future member of the Board, no current or future officer of the Company nor the Initial Member (each an "Indemnitee") shall be liable to the Company or any other third party (i) for mistakes of judgment, (ii) for any act or omission suffered or taken by it, (iii) for breach of fiduciary duty owed to the Company and/or its members or (iv) for losses due to any such mistake, action or inaction, or breach of fiduciary duty.

(b) To the fullest extent permitted by applicable law as the same exists or may hereafter be amended, the Company shall indemnify and hold harmless, and advance expenses including attorneys' fees, to an Indemnitee against all liabilities and claims against each such person arising from such person's performance of his duties in conformance with the terms of this Agreement. Notwithstanding the preceding sentence, the Company shall be required to indemnify, or advance expenses to, an Indemnitee in connection with a proceeding (or part thereof) commenced by such Indemnitee only if the commencement of such proceeding (or part thereof) by the Indemnitee was authorized by the Board.

(c) An Indemnitee may consult with legal counsel or accountants selected by the Board and/or the Initial Member and, to the maximum extent permitted by applicable law, any action or omission suffered or taken in good faith in reliance and in accordance with the written opinion or advice of any such counsel or accountants (provided such counsel or accountants have been selected with reasonable care) shall be fully protected and justified with respect to the action or omission so suffered or taken.

(d) The rights conferred upon Indemnitees in this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a member of the Board, an officer of the Company or the Initial Member and shall inure to the benefit of the Indemnitee's heirs, executors, administrators and successors. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an Indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any liability or claim involving any occurrence or any alleged occurrence of any action or omission that took place prior to such amendment or repeal.

IN WITNESS WHEREOF, the undersigned has executed this Consent to be effective as of the date set forth below.

HOLDER OF SERIES A PREFERRED UNITS:

Name:_____
By:_____
Number of Series A Preferred Units Held:_____
Dated:_____

WRITTEN CONSENT
OF HOLDER OF SERIES A PREFERRED UNITS
OF
HIGHLAND EMPLOYEE RETENTION ASSETS LLC

THE UNDERSIGNED holder of Series A Preferred Units of Highland Employee Retention Assets LLC hereby consents to and ratifies the below amendment to the Second Amended and Restated Limited Liability Company Agreement of the Company dated February 16, 2012 (the "***Company Agreement***"), as amended:

Section 5.1 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.1 General. The Company shall be managed by a Board of Directors (the "***Board***"), which shall at all times consist of five members, consisting of the following individuals:

Patrick Boyce
John Honis
William L. Britain
Ted Dameris
Scott Ellington

The Board shall have the sole right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on behalf of the Company, to sign for the Company or on behalf of the Company or otherwise to bind the Company. The Board shall act by majority vote (either by meeting or written consent), unless a greater percentage is expressly required under this Agreement. Each member of the Board shall serve until such member's death, resignation or removal from the Board by the unanimous affirmative vote of the remaining Board members. Any vacancies on the Board shall be filled by majority vote of the remaining members of the Board, or if no such majority decision can be reached, as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

Section 5.2 of the Company Agreement is hereby amended and replaced in its entirety to read as follows:

Section 5.2 Delegation of Powers of the Board. (a) Subject to Sections 5.2(b) and 5.2(c) and ARTICLE XI hereof, the Board shall have the exclusive and complete authority, acting without the consent or approval of, or notice to, the Member and in

the Board's sole and absolute discretion, to operate the Company and its business and to make all determinations or elections or to consent to any matter otherwise described in this Agreement. Neither the Member nor any other unitholder shall have the authority to remove any member of the Board.

(b) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company shall not, and shall not have power or authority and shall not be authorized to, and the Board shall not, and shall not have power or authority and shall not be authorized to cause the Company to, take any of the following actions without the prior affirmative vote or written consent of at least 75% of the members of the Board:

(i) dissolve, wind-up or liquidate, in whole or in part, or cause or consent to the dissolution, winding up or liquidation, in whole or in part, of the Company;

(ii) be a party to any merger or consolidation or sell, transfer, assign, convey or lease any asset of the Company, or cause or consent to any merger or consolidation or sale, transfer, assignment, conveyance or lease of any assets of the Company;

(iii) directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity, or cause the Company to directly or indirectly purchase or otherwise acquire (other than via a contribution from the Member) all or substantially all of the assets, or any equity interest of any class, of any legal entity;

(iv) incur or assume any indebtedness or obligations except for liabilities under Section 3.3, or cause the Company, to incur or assume any indebtedness or obligations except for liabilities under Section 3.3; or

(v) take any Bankruptcy Action with respect to the Company, or take, cause or consent to any Bankruptcy Action with respect to the Company.

(c) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the

Company, from and after the date of this Agreement and until the date on which all assets of the Company have been distributed in full, the Company may amend, alter, change or repeal any of the provisions of this Agreement (including, without limitation, the last sentence of Section 5.2(a) hereof) only upon either the prior affirmative vote or written consent of at least 75% of the members of the Board or as determined by the Member(s) holding a majority-in-interest of the Series A Preferred Units.

THE UNDERSIGNED further consents to and ratifies the Board's approval of the assignment of Series A Preferred Units of the Company to [BUYER] pursuant to the Offer to Purchase dated [January ___, 2013].

IN WITNESS WHEREOF, the undersigned has executed this Consent to be effective as of the date set forth below.

HOLDER OF SERIES A PREFERRED UNITS:

Name:_____
By:_____
Number of Series A Preferred Units Held:_____
Dated:_____

From: Isaac Leventon <ILeventon@hcmlp.com>
Sent: Friday, December 13, 2013 7:09 PM
To: Abrams, Kevin G. <abrams@AbramsBayliss.com>; Steven Hough <hough@abramsbayliss.com>; Matthew Miller <mmiller@abramslaster.com>; Scott Ellington <SEllington@hcmlp.com>; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst' <mhurst@ghjhlaw.com>; Eric Girard <EGirard@hcmlp.com>
Subject: RE: Daugherty - HERA Escrow
Attach: HERA Assets - Escrow_Depository Agreement (v.1).doc

All,

Please see attached draft escrow agreement.

Katz, Hurst, please check section 3(b) in particular to see if this gets you want you need. Also, we are leaning towards a current date on the agreement. We can discuss on our 2 pm call.

Abrams et al, please let us know if you have any comments generally, but specifically we are interested that you are comfortable with the indemnification and limitation of liability sections.

Thanks,
Isaac

From: Isaac Leventon
Sent: Thursday, December 12, 2013 5:54 PM
To: 'Abrams, Kevin (abrams@AbramsBayliss.com)'; ''Hough, Steven C.' (Hough@AbramsBayliss.com)'; 'Miller, Matthew L. (Miller@AbramsBayliss.com)'; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; Eric Girard
Subject: Daugherty - OPENING CONFERENCE LINE NOW

Dallas: 972-419-2555
North America: 1-866-984-4100
Conference ID: 205672
PIN: 972 470 9566

ISAAC LEVENTON | ASSISTANT GENERAL COUNSEL

HIGHLAND CAPITAL MANAGEMENT

300 Crescent Court | Suite 700 | Dallas, Texas 75201
O: 972.628.4100 | D: 972.419.4482 | F: 972.628.4147
ileventon@hcmlp.com | www.hcmlp.com

DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.

PRIVILEGE WARNING: The sender or recipient of this message is a member of the legal department at Highland Capital Management. This message and any attachments hereto may constitute attorney work product or be protected by the attorney-client privilege. Do not disclose this message or any attachments hereto without prior consent of a member of the legal department at Highland Capital Management.

DEFENDANT'S EXHIBIT
96
25-03055

From: Isaac Leventon <ILeventon@hcmlp.com>
Sent: Friday, December 13, 2013 9:18 PM
To: Matthew Miller <mmiller@abramslaster.com>; Abrams, Kevin G. <abrams@AbramsBayliss.com>; Steven Hough <hough@abramsbayliss.com>; Scott Ellington <SEllington@hcmlp.com>; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst' <mhurst@ghjhlaw.com>; Eric Girard <EGirard@hcmlp.com>
Subject: RE: Daugherty - HERA Escrow
Attach: 12-13-13 Escrow Agreement (Final).doc

Matt,

Please see attached what should be the final execution version. Please let me know if you have any further comments before we execute.

Thanks,
Isaac

From: Miller, Matthew L. [mailto:Miller@AbramsBayliss.com]
Sent: Friday, December 13, 2013 2:44 PM
To: Isaac Leventon; Abrams, Kevin G.; Hough, Steven C.; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst'; Eric Girard
Subject: RE: Daugherty - HERA Escrow

All,

Attached please find a clean copy and blackline reflecting Kevin Abram's markup to the escrow agreement. The escrow account is open, and wire instructions are as follows:

Direct to: Wells Fargo Bank, N.A., 420 Montgomery, San Francisco, CA 94104
ABA No. 121000248
Beneficiary: Highland Capital Management LP Client Abrams & Bayliss LLP TTE
Beneficiary Account No. [redacted]

For International Transfer only: International SWIFT BIC [redacted]
CHIPS Participant: ABA 0407

Best,

Matthew Miller
Abrams & Bayliss LLP
20 Montchanin Rd, Suite 200
Wilmington, DE 19807
302-778-1184 (office)
302-932-4686 (cell)

From: Isaac Leventon [mailto:ILeventon@hcmlp.com]
Sent: Friday, December 13, 2013 2:09 PM
To: Abrams, Kevin G.; Hough, Steven C.; Miller, Matthew L.; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst'; Eric Girard
Subject: RE: Daugherty - HERA Escrow

All,

Please see attached draft escrow agreement.

Katz, Hurst, please check section 3(b) in particular to see if this gets you want you need. Also, we are leaning towards a current date on the agreement. We can discuss on our 2 pm call.

Abrams et al, please let us know if you have any comments generally, but specifically we are interested that you are comfortable with the indemnification and limitation of liability sections.

Thanks,
Isaac

From: Isaac Leventon
Sent: Thursday, December 12, 2013 5:54 PM
To: 'Abrams, Kevin (abrams@AbramsBayliss.com)'; "Hough, Steven C.' (Hough@AbramsBayliss.com)'; 'Miller, Matthew L. (Miller@AbramsBayliss.com)'; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; Eric Girard
Subject: Daugherty - OPENING CONFERENCE LINE NOW

Dallas: 972-419-2555
North America: 1-866-984-4100
Conference ID: 205672
PIN: 972 470 9566

DEFENDANT'S EXHIBIT
97
25-03055

ISAAC LEVENTON | ASSISTANT GENERAL COUNSEL

HIGHLAND CAPITAL MANAGEMENT

300 Crescent Court | Suite 700 | Dallas, Texas 75201
O: 972.628.4100 | D: 972.419.4482 | F: 972.628.4147
ileventon@hcmlp.com | www.hcmlp.com

DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.

PRIVILEGE WARNING: The sender or recipient of this message is a member of the legal department at Highland Capital Management. This message and any attachments hereto may constitute attorney work product or be protected by the attorney-client privilege. Do not disclose this message or any attachments hereto without prior consent of a member of the legal department at Highland Capital Management.

From: Isaac Leventon <ILeventon@hcmlp.com>
Sent: Friday, December 13, 2013 8:54 PM
To: Matthew Miller <mmiller@abramslaster.com>; Abrams, Kevin G. <abrams@AbramsBayliss.com>; Steven Hough <hough@abramsbayliss.com>; Scott Ellington <SEllington@hcmlp.com>; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst' <mhurst@ghjhlaw.com>; Eric Girard <EGirard@hcmlp.com>
Subject: RE: Daugherty - HERA Escrow

Matt,

We accept all of these changes. Let me add the final asset numbers and our authorized persons.

Isaac

From: Miller, Matthew L. [mailto:Miller@AbramsBayliss.com]
Sent: Friday, December 13, 2013 2:44 PM
To: Isaac Leventon; Abrams, Kevin G.; Hough, Steven C.; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst'; Eric Girard
Subject: RE: Daugherty - HERA Escrow

All,

Attached please find a clean copy and blackline reflecting Kevin Abram's markup to the escrow agreement. The escrow account is open, and wire instructions are as follows:

Direct to: Wells Fargo Bank, N.A., 420 Montgomery, San Francisco, CA 94104
ABA No. 121000248
Beneficiary: Highland Capital Management LP Client Abrams & Bayliss LLP TTE
Beneficiary Account No. [redacted]

For International Transfer only: International SWIFT BIC [redacted]
CHIPS Participant: ABA 0407

Best,

Matthew Miller
Abrams & Bayliss LLP
20 Montchanin Rd, Suite 200
Wilmington, DE 19807
302-778-1184 (office)
302-932-4686 (cell)

From: Isaac Leventon [mailto:ILeventon@hcmlp.com]
Sent: Friday, December 13, 2013 2:09 PM
To: Abrams, Kevin G.; Hough, Steven C.; Miller, Matthew L.; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; 'Michael K. Hurst'; Eric Girard
Subject: RE: Daugherty - HERA Escrow

All,

Please see attached draft escrow agreement.

Katz, Hurst, please check section 3(b) in particular to see if this gets you want you need. Also, we are leaning towards a current date on the agreement. We can discuss on our 2 pm call.

Abrams et al, please let us know if you have any comments generally, but specifically we are interested that you are comfortable with the indemnification and limitation of liability sections.

Thanks,
Isaac

From: Isaac Leventon
Sent: Thursday, December 12, 2013 5:54 PM
To: 'Abrams, Kevin (abrams@AbramsBayliss.com)'; "Hough, Steven C." (Hough@AbramsBayliss.com)'; 'Miller, Matthew L. (Miller@AbramsBayliss.com)'; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; Eric Girard
Subject: Daugherty - OPENING CONFERENCE LINE NOW

Dallas: 972-419-2555
North America: 1-866-984-4100
Conference ID: 205672
PIN: 972 470 9566

ISAAC LEVENTON | ASSISTANT GENERAL COUNSEL

HIGHLAND CAPITAL MANAGEMENT

300 Crescent Court | Suite 700 | Dallas, Texas 75201
O: 972.628.4100 | D: 972.419.4482 | F: 972.628.4147
ileventon@hcmlp.com | www.hcmlp.com

DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.

PRIVILEGE WARNING: The sender or recipient of this message is a member of the legal department at Highland Capital Management. This message and any attachments hereto may constitute attorney work product or be protected by the attorney-client privilege. Do not disclose this message or any attachments hereto without prior consent of a member of the legal department at Highland Capital Management.

From: Eric Girard <EGirard@hcmlp.com>
Sent: Friday, December 13, 2013 7:16 PM
To: 'Katz, Marc' <MarcKatz@andrewskurth.com>; Isaac Leventon <ILeventon@hcmlp.com>; Abrams, Kevin G. <abrams@AbramsBayliss.com>; Steven Hough <hough@abramsbayliss.com>; Matthew Miller <mmiller@abramslaster.com>; Scott Ellington <SEllington@hcmlp.com>; 'Michael K. Hurst' <mhurst@ghjhlaw.com>
Subject: RE: Daugherty - HERA Escrow

Correct on the 1:30, but the 1:30 call is only for HCM, Andrews Kurth and Gruber Hurst.

From: Katz, Marc [mailto:MarcKatz@andrewskurth.com]
Sent: Friday, December 13, 2013 1:13 PM
To: Isaac Leventon; 'Abrams, Kevin (abrams@AbramsBayliss.com)'; "Hough, Steven C." (Hough@AbramsBayliss.com)'; 'Miller, Matthew L. (Miller@AbramsBayliss.com)'; Scott Ellington; 'Michael K. Hurst'; Eric Girard
Subject: RE: Daugherty - HERA Escrow

Will do. Please note, call is at 1:30

From: Isaac Leventon [mailto:ILeventon@hcmlp.com]
Sent: Friday, December 13, 2013 1:09 PM
To: 'Abrams, Kevin (abrams@AbramsBayliss.com)'; "Hough, Steven C." (Hough@AbramsBayliss.com)'; 'Miller, Matthew L. (Miller@AbramsBayliss.com)'; Scott Ellington; Katz, Marc; 'Michael K. Hurst'; Eric Girard
Subject: RE: Daugherty - HERA Escrow

All,

Please see attached draft escrow agreement.

Katz, Hurst, please check section 3(b) in particular to see if this gets you want you need. Also, we are leaning towards a current date on the agreement. We can discuss on our 2 pm call.

Abrams et al, please let us know if you have any comments generally, but specifically we are interested that you are comfortable with the indemnification and limitation of liability sections.

Thanks,
Isaac

From: Isaac Leventon
Sent: Thursday, December 12, 2013 5:54 PM
To: 'Abrams, Kevin (abrams@AbramsBayliss.com)'; "Hough, Steven C." (Hough@AbramsBayliss.com)'; 'Miller, Matthew L. (Miller@AbramsBayliss.com)'; Scott Ellington; 'Marc D. Katz (marckatz@andrewskurth.com)'; Eric Girard
Subject: Daugherty - OPENING CONFERENCE LINE NOW

Dallas: 972-419-2555
North America: 1-866-984-4100
Conference ID: 205672
PIN: 972 470 9566

ISAAC LEVENTON | ASSISTANT GENERAL COUNSEL

HIGHLAND CAPITAL MANAGEMENT

300 Crescent Court | Suite 700 | Dallas, Texas 75201
O: 972.628.4100 | D: 972.419.4482 | F: 972.628.4147
ileventon@hcmlp.com | www.hcmlp.com

DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.

PRIVILEGE WARNING: The sender or recipient of this message is a member of the legal department at Highland Capital Management. This message and any attachments hereto may constitute attorney work product or be protected by the attorney-client privilege. Do not disclose this message or any attachments hereto without prior consent of a member of the legal department at Highland Capital Management.

Confidentiality Notice: The information contained in this email and any attachments to it may be legally privileged and include confidential information intended only for the recipient(s) identified above. If you are not one of those intended recipients, you are hereby notified that any dissemination, distribution or copying of this email or its attachments is strictly prohibited. If you have received this email in error, please notify the sender of that fact by return email and permanently delete the email and any attachments to it immediately. Please do not retain, copy or use this email or its attachments for any purpose, nor disclose all or any part of its contents to any other person. Andrews Kurth LLP operates as a limited liability partnership. Andrews Kurth (Middle East) JLT is registered and licensed as a Free Zone company under the rules

and regulations of DMCCA. Thank you

Treasury Circular 230 Disclosure: Any tax advice in this email (including any attachment) is not intended or written to be used, and cannot be used, by any person, for the purpose of avoiding penalties that may be imposed on the person. If this email is used or referred to in connection with the promoting or marketing of any transaction(s) or matter(s), it should be construed as written to support the promoting or marketing of the transaction(s) or matter(s), and the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

ESCROW AGREEMENT

THIS ESCROW AGREEMENT is entered into December 13, 2013, by and between Highland Capital Management, L.P. ("Depositor"), and Abrams & Bayliss, LLP, as escrow agent (the "Escrow Agent").

WHEREAS, from time to time, pursuant to certain transactions, Depositor receives and holds certain funds; and

WHEREAS, Depositor is desirous of appointing the Escrow Agent as its agent to hold these funds subject to the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. **Appointment.** Depositor hereby appoints Escrow Agent as its escrow agent for the purposes set forth herein, and Escrow Agent hereby accepts such appointment under the terms and conditions set forth herein.

2. **Deposit Assets.** Depositor agrees to deposit with Escrow Agent the assets as set forth in Schedule 1 (the "Deposit Assets"). Escrow Agent shall hold the Deposit Assets as set forth in this Escrow Agreement. Escrow Agent shall not have any liability for any loss sustained as a result of any increase or decrease of value of any Deposit Assets or for the failure of an Authorized Representative of Depositor to give Escrow Agent instructions regarding any Deposit Asset. All interest or other income earned under this Agreement shall be accumulated and become part of the Deposit Assets. Depositor hereby represents to Escrow Agent that Depositor shall file all necessary tax documentation in relation to the Deposit Assets and no other tax reporting of any kind is required given the underlying transaction giving rise to this Agreement.

3. **Disposition and Termination.**

(a) The Escrow Agent shall deliver the Deposit Assets upon, and pursuant to, the written instructions of Depositor in compliance with Section 3(b). Any instructions setting forth, claiming, containing, objecting to, or in any way related to the transfer or distribution of the Deposit Assets, must be in writing or set forth in a Portable Document Format ("PDF"), executed by Depositor as evidenced by the signatures of the person or persons signing this Agreement or one of its designated persons as set forth in Schedule 2 (each an "Authorized Representative"), and delivered to Escrow Agent only by confirmed facsimile or attached to an email on a Business Day only at the fax number or email address set forth in Section 8 below. No instruction for or related to the transfer or distribution of the Deposit Assets shall be deemed delivered and effective unless Escrow Agent actually shall have received it on a Business Day by facsimile or as a PDF attached to an email only at the fax number or email address set forth in Section 8 and as evidenced by a confirmed transmittal to Depositor's transmitting fax number or email address and Escrow Agent has been able to satisfy any applicable security procedures as may be required hereunder. Escrow Agent shall not be liable to Depositor or other person for refraining from acting upon any instruction for or related to the transfer or distribution of the Deposit Assets if delivered to any other fax number or email address, including but not limited to a valid email address of any employee of Escrow Agent. Depositor acknowledges that Escrow Agent is authorized to use the following funds transfer instructions to disburse any Deposit Assets due to Depositor, respectively, without a verifying call-back, as set forth in Section 3(b) below:

Depositor: Bank name: Compass Bank
Account Name: Highland Capital Management, L.P. (Master Operating Account)
Routing# [redacted]
Account# [redacted]

CONFIDENTIAL

(b) Escrow Agent shall only transfer Deposit Assets under the following circumstances:

i. In the event Escrow Agent is provided a final, non-appealable judgment against Highland Employee Retention Assets, LLC ("HERA") by Patrick Daugherty, his successors, or assigns ("Daugherty") in the case *Highland Capital Management, L.P. and Cornerstone Healthcare Group Holding, Inc. v. Patrick Daugherty v. Sierra Verde, LLC, et al.*, Cause No. 12-04005 in the 68th Judicial District of Dallas County, Texas ("Daugherty Action"), Escrow Agent shall, within 10 Business Days, transfer to HERA Deposit Assets equivalent to the amount of such judgment, or if the judgment against HERA exceeds the amount of Deposit Assets, Escrow Agent shall transfer to HERA all Deposit Assets, including accumulated income, held by Escrow Agent.

ii. In the event Escrow Agent is provided a final, non-appealable order dismissing Daugherty's claims against HERA in the Daugherty Action, Escrow Agent shall, within 10 Business Days, transfer all Deposit Assets, including accumulated income, to Depositor.

All transfers made in this Section 3(b) shall be made subject to Sections 6 and 7 herein.

(c) As used in this Section 3, "Business Day" shall mean any day other than a Saturday, Sunday or any Federal holiday. Upon delivery of the Deposit Assets by Escrow Agent, this Agreement shall terminate, subject to the provisions of Sections 6 and 7 herein.

4. **Escrow Agent.** Escrow Agent shall have only those duties as are specifically and expressly provided herein, which shall be deemed purely ministerial in nature. No other duties shall be implied, and under no circumstances shall the Escrow Agent be deemed a fiduciary of Depositor for the purposes of this Agreement. Escrow Agent has no knowledge of, nor any requirement to comply with, the terms and conditions of any other agreement, instrument or document other than this Agreement. Escrow Agent may conclusively rely upon any written notice, document, instruction or request delivered by Depositor believed by it to be genuine and to have been signed by an Authorized Representative without inquiry and without requiring substantiating evidence of any kind. Escrow Agent shall not be liable for any action taken, suffered or omitted to be taken by it pursuant to, or in relation to this Agreement, except for willful misconduct causing direct loss to Depositor. Escrow Agent may execute any of its powers and perform any of its duties hereunder directly or through affiliates or agents. Escrow Agent shall have no duty to confirm or verify the accuracy or correctness of any amounts deposited with it hereunder. Anything in this Agreement to the contrary notwithstanding, in no event shall Escrow Agent be liable for special, incidental, punitive, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

5. **Resignation; Succession.** Escrow Agent may resign and be discharged from its duties or obligations hereunder by giving ten (10) days advance written notice specifying a date when such resignation shall take effect. Escrow Agent shall deliver the Deposit Assets to any appointed successor escrow agent, or to the Depositor, at which time Escrow Agent's obligations under this Agreement shall cease and terminate. Any entity into which Escrow Agent may be merged or converted or with which it may be consolidated, or any entity to which all or substantially all the escrow business may be transferred, shall be the Escrow Agent under this Agreement without further act.

6. **Compensation.** Depositor agrees to pay Escrow Agent upon execution of this Agreement and from time to time thereafter reasonable compensation for the services to be rendered hereunder as agreed by Escrow Agent and Depositor.

7. **Indemnification and Reimbursement.** Depositor agrees to indemnify, defend, hold harmless, pay or reimburse Escrow Agent and its affiliates and their respective successors, assigns, directors, partners, agents and employees (the "Indemnitees") from and against any and all losses, damages, claims, liabilities, penalties, judgments, settlements, litigation, investigations, costs or expenses (including, without limitation, attorney's fees, expert fees and expenses and out-of-pocket expenses) (collectively "Losses"), arising out of or in connection with (a) Escrow Agent's performance of this Agreement, except to the extent that such Losses are determined by a court of competent jurisdiction through a final, non-appealable order to have been caused by the willful misconduct of

CONFIDENTIAL

002186

HCMLTL0000437
PDADV_018659

such Indemnitee; and (b) Escrow Agent's following any instructions or directions from Depositor received in accordance with this Agreement. Depositor shall pay all expenses (including attorney's fees) incurred by such Indemnitee as they are incurred in advance of the dispute's final disposition. The foregoing indemnification includes, but is not limited to, disputes between Depositor and Escrow Agent arising out of or in connection with this Agreement. Depositor hereby grants Escrow Agent a lien on, right of set-off against and security interest in the Deposit Assets for the payment of any claim for indemnification, fees, expenses and amounts due to Escrow Agent or an Indemnitee. In furtherance of the foregoing, Escrow Agent is expressly authorized and directed, but shall not be obligated, to charge against and withdraw from the Deposit Assets for its own account or for the account of an Indemnitee any amounts due to Escrow Agent or to an Indemnitee under Section 6 or 7. The obligations set forth in this Section 7 shall survive the resignation, replacement or removal of Escrow Agent or the termination of this Agreement.

8. **Notices.** All communications hereunder shall be in writing or set forth in a PDF attached to an email, and all instructions from Depositor to the Escrow Agent shall be executed by an Authorized Representative, and shall be delivered in accordance with the terms of this Agreement by facsimile, email or overnight courier only to the appropriate fax number, email address, or notice address set forth for each party as follows:

If to Depositor:

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas, 75201
Attention: General Counsel
Tel No.: (972) 628-4100
Fax No.: (972) 628-4147
Email: sellington@hcmlp.com

If to Escrow Agent:

Abrams & Bayliss, LLP
20 Montchanin Road, Suite 200
Wilmington, Delaware 19807
Attention: Jean Chaney
Tel No.: (302) 388-2457
Fax No.: (302) 261-0293
Email: chaney@AbramsBayliss.com

9. **Compliance with Court Orders.** Escrow Agent shall provide Depositor with prompt written notice in the event that any of the Deposit Assets shall be attached, garnished, levied upon, or otherwise be subject to any court order, or the delivery thereof shall be stayed or enjoined by an order of a court. Escrow Agent hereby is expressly authorized, in its sole discretion, to obey and comply with all such orders so entered or issued, which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction, and in the event that Escrow Agent obeys or complies with any such order it shall not be liable to Depositor hereto or to any other person by reason of such compliance notwithstanding such order be subsequently reversed, modified, annulled, set aside or vacated.

10. **Miscellaneous.** The provisions of this Agreement may be waived, altered, amended or supplemented only by a writing signed by the Escrow Agent and Depositor. Neither this Agreement nor any right or interest hereunder may be assigned by Depositor without the prior consent of Escrow Agent. This Agreement shall be governed by and construed under the laws of the State Delaware. Depositor and Escrow Agent irrevocably waives any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consent to service of process by mail or in any other manner permitted by applicable law and consents to the exclusive jurisdiction of the courts located in the State of Delaware. To the extent that in any jurisdiction either Party may now or hereafter be entitled to claim for itself or its assets, immunity from suit, execution, attachment (before or after judgment) or other legal process, such Party shall not claim, and hereby irrevocably waives, such immunity. Escrow Agent and Depositor further hereby waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. No party to this Agreement is liable to any other party for losses due to, or if it is unable to

perform its obligations under the terms of this Agreement because of, acts of God, fire, war, terrorism, floods, strikes, electrical outages, equipment or transmission failure, or other causes reasonably beyond its control. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument or instruction, as applicable. All signatures of the parties to this Agreement may be transmitted by facsimile, and such facsimile will, for all purposes, be deemed to be the original signature of such party whose signature it reproduces, and will be binding upon such party. If any provision of this Agreement is determined to be prohibited or unenforceable by reason of any applicable law of a jurisdiction, then such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof, and any such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. Depositor represents warrants and covenants that each document, notice, instruction or request provided by Depositor to Escrow Agent shall comply with applicable laws and regulations. Except as expressly provided in Section 7 above, nothing in this Agreement, whether express or implied, shall be construed to give to any person or entity other than Escrow Agent and Depositor any legal or equitable right, remedy, interest or claim under or in respect of the Deposit Assets or this Agreement. The parties agree that irreparable harm would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, this being in addition to any other remedy to which they are entitled at law or in equity. This Agreement sets forth all matters pertinent to the escrow contemplated hereunder, and no additional obligations of the Escrow Agent shall be inferred from the terms of this Agreement or any other agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective on the date set forth above.

HIGHLAND CAPITAL MANAGEMENT, L.P.
As Depositor

By: _____
Name: James Dondero
Title: President of Strand Advisors, Inc., as general partner

ABRAMS & BAYLISS, LLP
As Escrow Agent

By: _____
Name: Kevin G. Abrams
Title:Managing Partner

CONFIDENTIAL

002188

ABS_TL0000439
PDADV_018661

SCHEDULE 1

The following shall be the Deposit Assets.

Asset	Amount
Cash (USD)	$ 1,210,502.03
Highland Restoration Capital Partners, L.P. limited partner interest (USD as of 9/30/2013)	$1,820,050.49
NexPoint Credit Strategies Deposit Assets shares	1088.42 shares

CONFIDENTIAL

002189

HCMLTL0000440
PDADV_018662

SCHEDULE 2

Telephone Numbers and Authorized Signatures for
Person(s) Designated to Give Joint Instructions and Confirm Deposit Assets Transfer Instructions

For Depositor:

Name	Telephone Number	Signature
1. Scott Ellington	[redacted]	

All instructions, including but not limited to funds transfer instructions, whether transmitted by facsimile or set forth in a PDF attached to an email, must include the signature of the Authorized Representative authorizing said funds transfer on behalf of each Party.

From: Matthew Miller <Miller@AbramsBayliss.com>
Sent: Monday, December 5, 2016 5:26 PM
To: Scott Ellington <SEllington@HighlandCapital.com>; MarcKatz@andrewskurth.com; Bookhout, James (JamesBookhout@andrewskurth.com)
Cc: Abrams, Kevin G. <abrams@abramsbayliss.com>
Subject: FW: Highland
Attach: 2016_12_02_22_11_16.pdf

Team,

As reflected below, the funds A&B was holding in escrow on behalf of HERA have been transferred as instructed in Scott Ellington's December 2, 2016 letter.

Best,

Matthew Miller
Abrams & Bayliss LLP
20 Montchanin Rd, Suite 200
Wilmington, DE 19807
302-778-1184 (office)
302-932-4686 (cell)

From: Chaney, Jean Ann
Sent: Monday, December 05, 2016 12:12 PM
To: Abrams, Kevin G.; Miller, Matthew L.
Subject: Highland

The wire transfer to Highland was completed this morning. Please reference federal tracking #FW0066033340771986.

DEFENDANT'S EXHIBIT
98
25-03055

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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff/Counter-Defendant, v. PATRICK HAGAMAN DAUGHERTY, Defendant/Counter-Plaintiff.	§	Adv. Proc. No. 25-03055-bwo

CERTIFICATE OF SERVICE

I, Patrick M. Leathem, depose and say that I am employed by Kurtzman Carson Consultants, LLC dba Verita Global ("Verita"), the claims and noticing agent for the Reorganized Debtor in the bankruptcy case of *Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N.D. Tex).

On April 10, 2026, at my direction and under my supervision, employees of Verita caused the following document to be served via Electronic Mail upon the service list attached hereto as **Exhibit A**:

- **[Proposed] Joint Pretrial Order** [Docket No. 100]

Dated: March 10, 2026

/s/ *Patrick M. Leathem*
Patrick M. Leathem
Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 E. Mockingbird Ln., Ste 147 #5045, Dallas, TX 75214.

EXHIBIT A

Exhibit A
Adversary Service List
Served via Electronic Mail

Description	CreditorName	CreditorNoticeName	Email
Counsel to Patrick Daugherty	Gray Reed	Jason S. Brookner, Andrew K. York, Joshua D. Smeltzer, Drake M. Rayshell, William Drabble, J. Reid Burley	jbrookner@grayreed.com; dyork@grayreed.com; jsmeltzer@grayreed.com; drayshell@grayreed.com; wdrabble@grayreed.com; rburley@grayreed.com
Counsel for the Debtor	Hayward & Associates PLLC	Melissa S. Hayward, Zachery Z. Annable	MHayward@HaywardFirm.com; ZAnnable@HaywardFirm.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Richard M. Pachulski, Jeffrey N. Pomerantz, Ira D. Kharasch, James E. O'Neill, Robert J. Feinstein, John A. Morris, Gregory V. Demo	rpachulski@pszjlaw.com; jpomerantz@pszjlaw.com; ikharasch@pszjlaw.com; joneill@pszjlaw.com; rfeinstein@pszjlaw.com; jmorris@pszjlaw.com; gdemo@pszjlaw.com
Counsel for the Debtor	Pachulski Stang Ziehl & Jones LLP	Robert Joel Feinstein, Hayley R. Winograd, Judith Elkin, Jordan A Kroop, Robert J Feinstein	rfeinstein@pszjlaw.com; hwinograd@pszjlaw.com; jelkin@pszjlaw.com

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100

Counsel for Highland Capital Management, L.P.

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S FIRST SUPPLEMENT TO SECOND AMENDED WITNESS AND EXHIBIT LIST WITH RESPECT TO TRIAL TO BE HELD ON APRIL 17, 2026

Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above-captioned chapter 11 case (the "Bankruptcy Case") and plaintiff/counter-defendant in the above-captioned adversary proceeding (the "Adversary Proceeding"), by and through its undersigned counsel, submits the following first supplement (the "Supplemental Witness and Exhibit List") to *Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026* [Docket No. 107] (the "Second Amended Witness and Exhibit List") with respect to (a) Highland's *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1], and (b) *Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Docket No. 1] and Original Counterclaim* [Docket No. 39], which the Court has set for trial at 9:00 a.m. (Central Time) on April 17, 2026 (the "Trial") in the Adversary Proceeding.[2]

A. Witnesses:

1. James P. Seery, Jr.;
2. David Klos;
3. Patrick Daugherty;
4. Trevor Jason Liles-Tims;

[2] In accordance with the Court's Judge-Specific Guidelines, this Supplemental Witness and Exhibit List is being filed to include on the docket one additional demonstrative exhibit Highland intends to introduce at the Trial.

5. Any witness identified by or called by any other party; and

6. Any witness necessary for rebuttal.

B. Supplemental Exhibits:[3]

Number	Exhibit	Offered	Admitted
66.	Highland Demonstrative Exhibit: Opening Slide Deck [Highland D-2]		
67.	Any document entered or filed in Highland Capital Management, L.P.'s chapter 11 Bankruptcy Case or any associated adversary proceeding, including any exhibits thereto		
68.	All exhibits necessary for impeachment and/or rebuttal purposes		
69.	All exhibits identified by or offered by any other party at the Trial		

[*Remainder of Page Intentionally Blank*]

[3] For the avoidance of doubt, the exhibits identified in this Supplemental Witness and Exhibit List supplement the exhibits listed in the Second Amended Witness and Exhibit List.

Dated: April 17, 2026

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on April 17, 2026, a true and correct copy of the foregoing *Supplemental Witness and Exhibit List* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

EXHIBIT 66

HIGHLAND CAPITAL
MANAGEMENT

Highland Capital Mgt. v. Daugherty

Adv. Pro. No. 25-03055-bwo

April 17, 2026

PSZJ PACHULSKI STANG ZIEHL & JONES

002200

Causes of Action

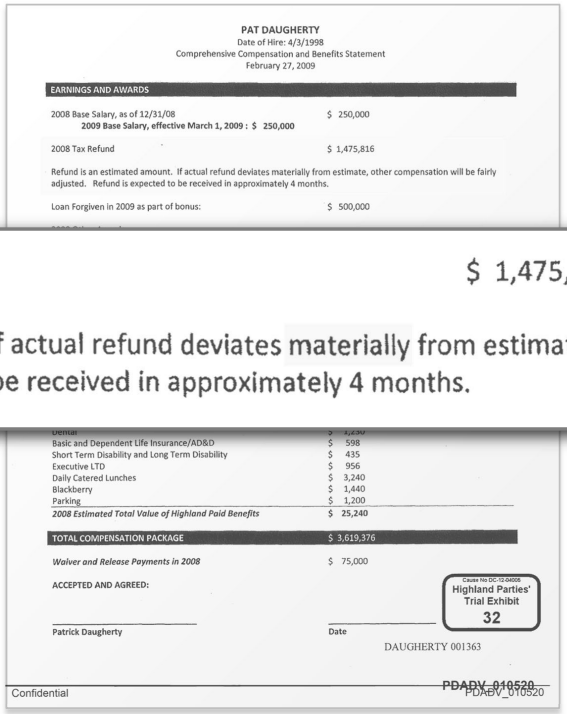
Highland Causes of Action

1. Daugherty's $2.6 Million Fully Reserved Claim Should Be Disallowed
2. If Allowed, Daugherty's Claim Should be Estimated Pursuant to Section 502
3. Subordination (withdrawn)

Daugherty Causes of Action

1. Breach of Contract (books and records)
2. Specific Performance
3. Attorneys' Fees for "Bad Faith" Commencement of the Adversary Proceeding

The So-Called Agreement Within the Compensation Statement Has Vague and Missing Terms



PAT DAUGHERTY
Date of Hire: 4/3/1998
Comprehensive Compensation and Benefits Statement
February 27, 2009

EARNINGS AND AWARDS

2008 Base Salary, as of 12/31/08 **2009 Base Salary, effective March 1, 2009 : $ 250,000**	$ 250,000
2008 Tax Refund	$ 1,475,816

Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

Loan Forgiven in 2009 as part of bonus:	$ 500,000
Basic and Dependent Life Insurance/AD&D	$ 598
Short Term Disability and Long Term Disability	$ 435
Executive LTD	$ 956
Daily Catered Lunches	$ 3,240
Blackberry	$ 1,440
Parking	$ 1,200
2008 Estimated Total Value of Highland Paid Benefits	$ 25,240
TOTAL COMPENSATION PACKAGE	$ 3,619,376
Waiver and Release Payments in 2008	$ 75,000

ACCEPTED AND AGREED:

Patrick Daugherty

Date

Cause No DC-12-04606
Highland Parties' Trial Exhibit 32

DAUGHERTY 001363

Confidential

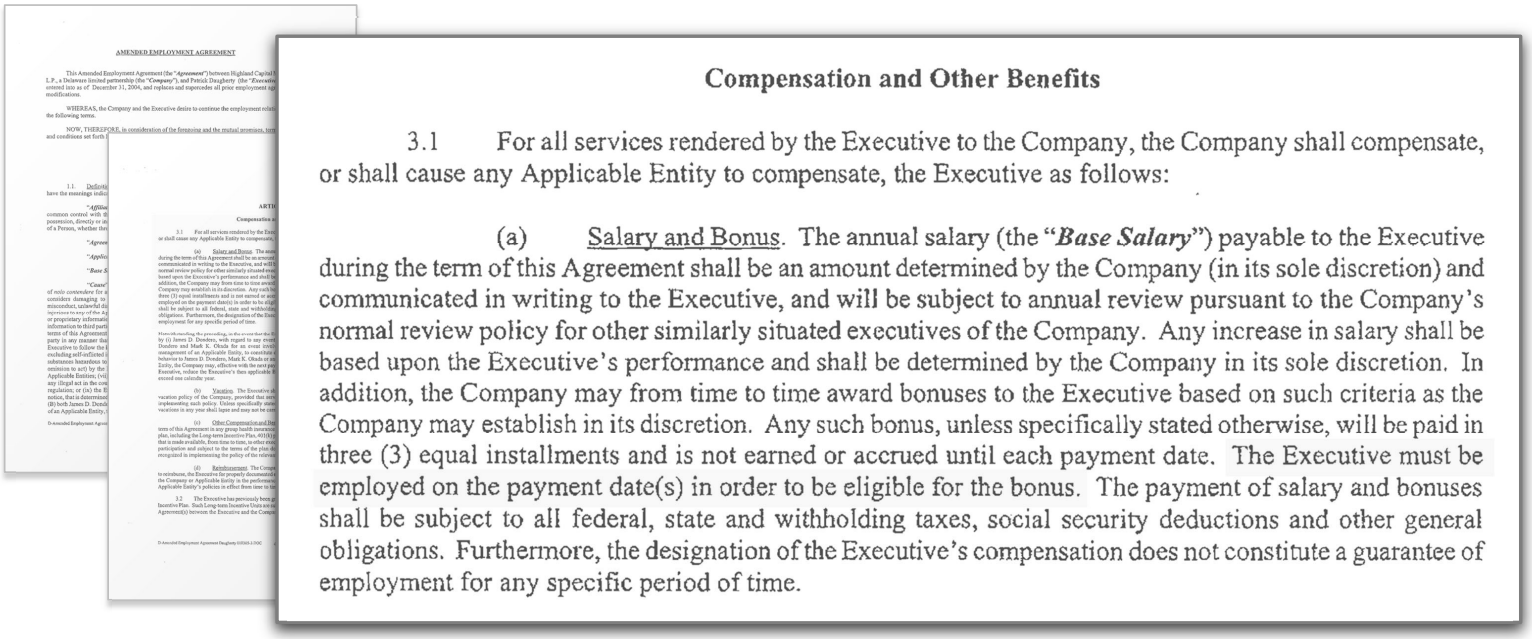
PDADV_010520

2008 Tax Refund $ 1,475,816

Refund is an estimated amount. If actual refund deviates materially from estimate, other compensation will be fairly adjusted. Refund is expected to be received in approximately 4 months.

Highland Ex. 13

If the Tax Refund Was Daugherty's 2008 Bonus, Then He Forfeited the Bonus When He Resigned



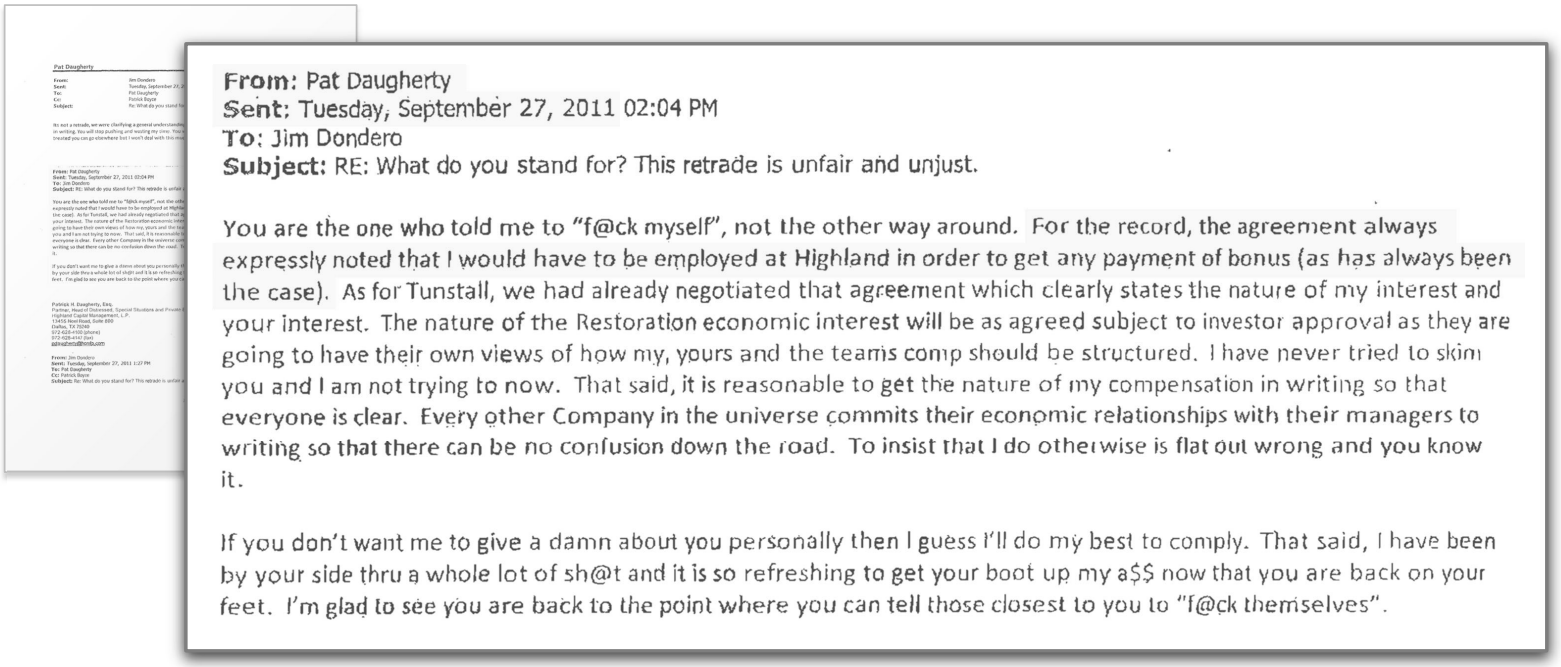
Compensation and Other Benefits

3.1 For all services rendered by the Executive to the Company, the Company shall compensate, or shall cause any Applicable Entity to compensate, the Executive as follows:

(a) Salary and Bonus. The annual salary (the "***Base Salary***") payable to the Executive during the term of this Agreement shall be an amount determined by the Company (in its sole discretion) and communicated in writing to the Executive, and will be subject to annual review pursuant to the Company's normal review policy for other similarly situated executives of the Company. Any increase in salary shall be based upon the Executive's performance and shall be determined by the Company in its sole discretion. In addition, the Company may from time to time award bonuses to the Executive based on such criteria as the Company may establish in its discretion. Any such bonus, unless specifically stated otherwise, will be paid in three (3) equal installments and is not earned or accrued until each payment date. The Executive must be employed on the payment date(s) in order to be eligible for the bonus. The payment of salary and bonuses shall be subject to all federal, state and withholding taxes, social security deductions and other general obligations. Furthermore, the designation of the Executive's compensation does not constitute a guarantee of employment for any specific period of time.

Highland Ex. 11 § 3.1(a). *See also* Daugherty Ex. 41 (showing that in lieu of cash bonus in February 2009, Daugherty was granted a tax refund and loan forgiveness).

Daugherty Admitted Before Resigning That He Had to Be Employed to Receive His Bonus



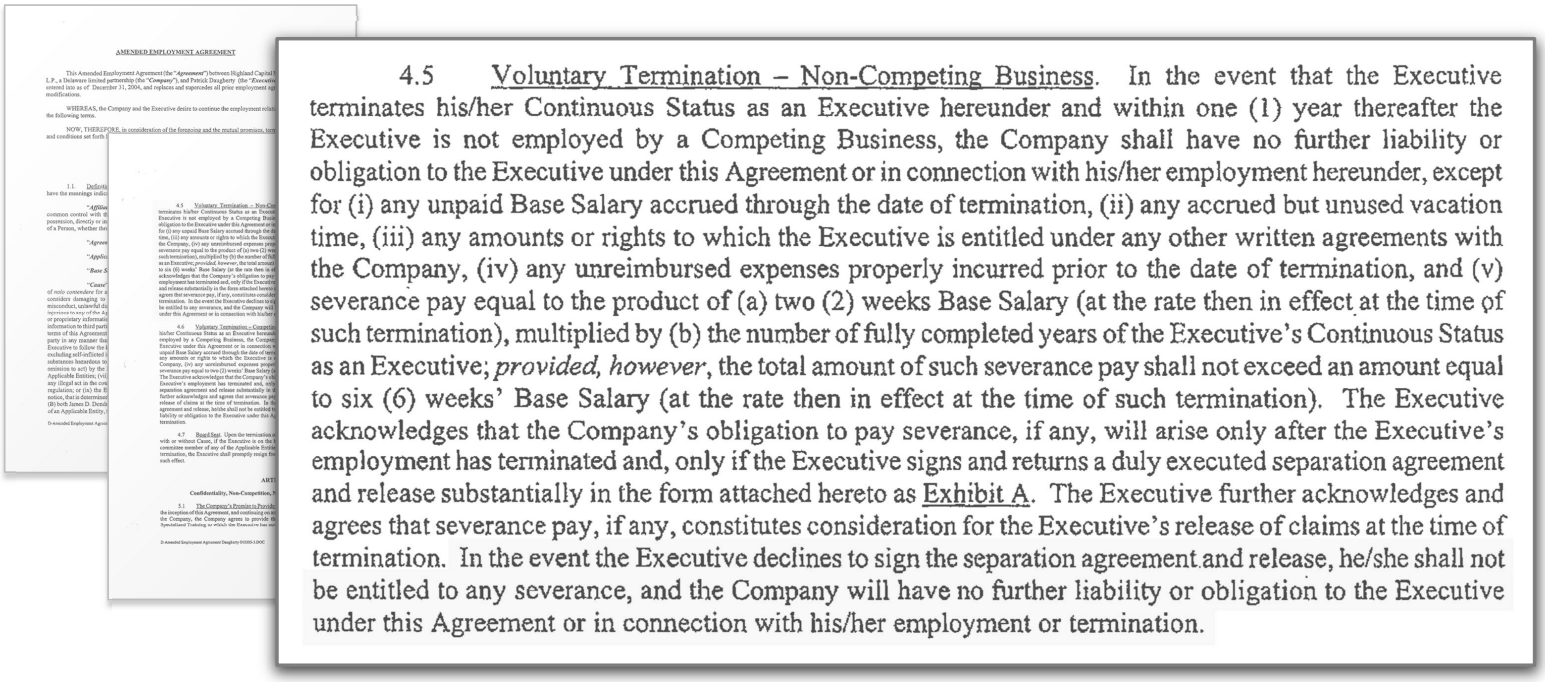
From: Pat Daugherty
Sent: Tuesday, September 27, 2011 02:04 PM
To: Jim Dondero
Subject: RE: What do you stand for? This retrade is unfair and unjust.

You are the one who told me to "f@ck myself", not the other way around. For the record, the agreement always expressly noted that I would have to be employed at Highland in order to get any payment of bonus (as has always been the case). As for Tunstall, we had already negotiated that agreement which clearly states the nature of my interest and your interest. The nature of the Restoration economic interest will be as agreed subject to investor approval as they are going to have their own views of how my, yours and the teams comp should be structured. I have never tried to skim you and I am not trying to now. That said, it is reasonable to get the nature of my compensation in writing so that everyone is clear. Every other Company in the universe commits their economic relationships with their managers to writing so that there can be no confusion down the road. To insist that I do otherwise is flat out wrong and you know it.

If you don't want me to give a damn about you personally then I guess I'll do my best to comply. That said, I have been by your side thru a whole lot of sh@t and it is so refreshing to get your boot up my a$$ now that you are back on your feet. I'm glad to see you are back to the point where you can tell those closest to you to "f@ck themselves".

Highland Ex. 38

Highland Has No Liability to Daugherty Because Daugherty Decided Not to Sign and Return Exhibit A



4.5 Voluntary Termination – Non-Competing Business. In the event that the Executive terminates his/her Continuous Status as an Executive hereunder and within one (1) year thereafter the Executive is not employed by a Competing Business, the Company shall have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment hereunder, except for (i) any unpaid Base Salary accrued through the date of termination, (ii) any accrued but unused vacation time, (iii) any amounts or rights to which the Executive is entitled under any other written agreements with the Company, (iv) any unreimbursed expenses properly incurred prior to the date of termination, and (v) severance pay equal to the product of (a) two (2) weeks Base Salary (at the rate then in effect at the time of such termination), multiplied by (b) the number of fully completed years of the Executive's Continuous Status as an Executive; *provided, however*, the total amount of such severance pay shall not exceed an amount equal to six (6) weeks' Base Salary (at the rate then in effect at the time of such termination). The Executive acknowledges that the Company's obligation to pay severance, if any, will arise only after the Executive's employment has terminated and, only if the Executive signs and returns a duly executed separation agreement and release substantially in the form attached hereto as Exhibit A. The Executive further acknowledges and agrees that severance pay, if any, constitutes consideration for the Executive's release of claims at the time of termination. In the event the Executive declines to sign the separation agreement and release, he/she shall not be entitled to any severance, and the Company will have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment or termination.

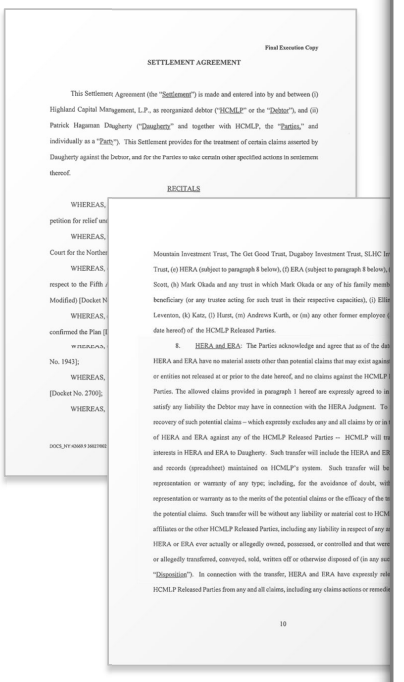
Highland Ex. 11 § 4.5

If Allowed, Daugherty's Reserved Claim Is Estimated to Be Between $0 and $430,976

Case:		I		II		III		IV		V	
		MIN ESTIMATION AMT.		TMP ACCEPTED AMT.		MID-POINT AMT.		IRS OFFER AMT.		MAX 2018 AUDIT AMT.	
	Reference/formula	Complete reversal of 2018 audit		Tax Matters Partner offer to IRS [6]		Hypothetical complete 50/50 split [7]		IRS settlement offer [8]		2018 adjustments from the IRS audit team [9]	
IRS income adjustment to HCMLP	**A**	**$ -**		**See note [6]**		**$83,166,357**		**$ 129,528,079**		**$166,332,713**	
Daugherty's % of partnership [1]	B	0.7403%		0.7403%		0.7403%		0.7403%		0.7403%	
Daugherty share of IRS income adjustment	C = A x B	$ -		See note [6]		$ 615,681		$ 958,896		$ 1,231,361	
2008 applicable tax rate - 35%	D	35%		35%		35%		35%		35%	
Tax underpayment – Daugherty	**E = C x D**	$ -		**$ 59,224**		**$ 215,488**		**$ 335,614**		**$ 430,976**	
Statutory penalty [2]	**F = E x [penalty %]**	**$ -**		**$ -**	0%	**$ 21,549**	10%	**$ -**	0%	**$ 86,195**	20%
Potential interest:											
Applicable statutory blended rate [3]	G	4.59%		4.59%		4.59%		4.59%		4.59%	
Time outstanding (years) [4]	H	10.51		10.51		10.51		10.51		10.51	
Interest accrued	**I = E x G x H**	**$ -**		**$ -**		**$ 103,860**		**$ 161,758**		**$ 207,720**	
Maximum theoretical amount (underpayment + penalty + interest)	J = E + F + I	$ -		$ 59,224		$ 340,897		$ 497,371		$ 724,892	
Income on previous refund [5]	K	$ -		$ (59,224)		$ (125,409)		$ (161,758)		$ (293,915)	
Estimation amount	**L = J - K**	**$ -**		**$ -**		**$ 215,488**		**$ 335,614**		**$ 430,976**	

Highland Ex. D-1

The Books and Records Provision



8. HERA and ERA: The Parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims that may exist against persons or entities not released at or prior to the date hereof, and no claims against the HCMLP Released Parties. The allowed claims provided in paragraph 1 hereof are expressly agreed to in order to satisfy any liability the Debtor may have in connection with the HERA Judgment. To facilitate recovery of such potential claims – which expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP Released Parties -- HCMLP will transfer its interests in HERA and ERA to Daugherty. Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system. Such transfer will be without representation or warranty of any type; including, for the avoidance of doubt, without any representation or warranty as to the merits of the potential claims or the efficacy of the transfer of the potential claims. Such transfer will be without any liability or material cost to HCMLP or its affiliates or the other HCMLP Released Parties, including any liability in respect of any assets that HERA or ERA ever actually or allegedly owned, possessed, or controlled and that were actually or allegedly transferred, conveyed, sold, written off or otherwise disposed of (in any such case, a "Disposition"). In connection with the transfer, HERA and ERA have expressly released the

Highland Ex. 5 § 8

Highland Satisfied the HERA/ERA Books and Records Provision

May 5, 2022

Highland Delivers [50MB] of HERA/ERA Books and Reocrds Including:

- All HERA/ERA corporate books and legal documents maintained by Highland on in its system
  - All known governing documents, amendments, assignments, written board resolutions, purchase agreements, other agreements, and director resignations
- All HERA historical financial records activity exported from Quickbooks (HERA's accounting system), which included detail of every accounting entry made in HERA's history (ERA never had any economic activity)
- All HERA historical tax returns of HERA (ERA never filed tax returns and was a disregarded entity for tax purposes)
- The delivery **satisfied** Highland's obligations under the HERA/ERA Books and Records Provision

October 19, 2022

Re- Delivery of same HERA/ERA Boooks and Records and Additional Back-Up In Response to Requests for Data [100MB] Including:

- Re-delivery of HERA/ERA corporate books and records
- Over 300 back-up invoices to the Quickbooks data from 35 vendors (mostly unredacted legal invoices) representing over 90% of all expenses allocated to HERA historically
  - Highland was unable to locate approx. 30 invoices comprising less than 10% of HERA's historical expenses after performing a diligent search
- Certain historic Restoration Cap. Partners fund quarterly investor statements(a passive LP interest of HERA in a Highland-managed fund)
- HERA historic Smith Barney brokerage statements from 2010, 2011, and 2012 reflecting brokerage held assets and activity
- Tracking sheets summarizing HERA assets from 2009-2012, HERA beneficiaries' interests in HERA and distributions thereon
- Highland re-affirms that it **satisfied its obligations in May 2022** and that the additional delivery will end its involvement with HERA/ERA

Daugherty Misrepresents the Plain and Unambiguous Words of the Agreement

"Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system" (H-5 §8)

- "Daugherty bargained for and obtained . . . **Highland's books and records related** to HERA." (H-1 §14) (emphasis added)
- Highland failed to provide "books and records . . . that **related to HERA and ERA**." (Pre-trial brief, Docket No. 102 §1) (emphasis added)
- Daugherty is entitled to "all ownership rights, property, data, documents, and records relating to HERA and ERA." *Id.* §25 (emphasis added)
- Daugherty needs "all HERA and ERA materials in Highland's possession." *Id.* §27
- Daugherty "must receive **everything Highland possessed** relating to those entities." *Id.*

See Highland Ex. 52 (Transfer Agreements defining "Interests" as the membership interests of each limited liability company).

United States Bankruptcy Court

Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Adv. Proc. No. 25-03055-bwo

Daugherty,

Defendant

CERTIFICATE OF NOTICE

District/off: 0539-3 User: admin

Date Rcvd: Apr 15, 2026 Form ID: pdf001 Total Noticed: 5

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Apr 17, 2026:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID		Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Apr 15 2026 21:35:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Apr 15 2026 21:35:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Apr 15 2026 21:35:00	United States Trustee - MD12, US Trustee's Office, 230 Homer Thornberry Judicial Bldg., 903 San Jacinto Blvd., Austin, TX 78701-2450
ust	+	Email/Text: USTPRegion07.SN.ECF@usdoj.gov	Apr 15 2026 21:35:00	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055
ust	+	Email/Text: ustpregion07.au.ecf@usdoj.gov	Apr 15 2026 21:35:00	United States Trustee - WA12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 5

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
ust	*+	United States Trustee - SA12, US Trustee's Office, 615 E Houston, Suite 533, San Antonio, TX 78205-2055

TOTAL: 0 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Apr 17, 2026 Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on April 15, 2026 at the address(es) listed below:

Name	Email Address
Andrew K. York	on behalf of Defendant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Andrew K. York	on behalf of Counter-Claimant Patrick Hagaman Daugherty dyork@grayreed.com slangley@grayreed.com
Gregory V. Demo	on behalf of Counter-Defendant Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Gregory V. Demo	on behalf of Plaintiff Highland Capital Management L.P. gdemo@pszjlaw.com, jo'neill@pszjlaw.com;ljones@pszjlaw.com;jfried@pszjlaw.com;ikharasch@pszjlaw.com;jmorris@pszjlaw.com;jpomerantz@pszjlaw.com;hwinograd@pszjlaw.com;kyee@pszjlaw.com;lsc@pszjlaw.com
Hayley R Winograd	on behalf of Plaintiff Highland Capital Management L.P. hayleywinograd@gmail.com
Hayley R Winograd	on behalf of Counter-Defendant Highland Capital Management L.P. hayleywinograd@gmail.com
Jeffrey Nathan Pomerantz	on behalf of Plaintiff Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Nathan Pomerantz	on behalf of Counter-Defendant Highland Capital Management L.P. jpomerantz@pszjlaw.com
Jeffrey Reid Burley	on behalf of Defendant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
Jeffrey Reid Burley	on behalf of Counter-Claimant Patrick Hagaman Daugherty rburley@grayreed.com hpetrea@bellnunnally.com
John A Morris	on behalf of Plaintiff Highland Capital Management L.P. jmorris@pszjlaw.com
John A Morris	on behalf of Counter-Defendant Highland Capital Management L.P. jmorris@pszjlaw.com
Melissa S. Hayward	on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com
Zachery Z. Annable	on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com
Zachery Z. Annable	on behalf of Counter-Defendant Highland Capital Management L.P. zannable@haywardfirm.com, mholmes@haywardfirm.com

TOTAL: 15

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed April 15, 2026

United States Bankruptcy Judge

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff/Counter-Defendant,	§	
v.	§	Adversary No. 25-03055-bwo
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant/Counter-Plaintiff.	§	

4899-0987-9969

ORDER AUTHORIZING PLAINTIFF HIGHLAND CAPITAL MANAGEMENT, L.P., AND DEFENDANT PATRICK HAGAMAN DAUGHERTY TO FILE CERTAIN EXHIBITS UNDER SEAL

Upon the joint motion ("Motion")[1] of Highland Capital Management, L.P. ("Highland") and Patrick Hagaman Daugherty ("Daugherty") (together, the "Parties") for entry of an order (this "Order"): (a) authorizing Highland to file under seal Highland's exhibits 14, 21-28, 35-37, 57, 61, 62 ("Highland's Sealed Exhibits") from Highland's Witness and Exhibit List and Daugherty to file under seal exhibits 17-26, 21a, 29, 60-62, 64-67, 69, 72-77 and 83-85 ("Daugherty's Sealed Exhibits," and together with Highland's Sealed Exhibits, the "Sealed Exhibits") from Daugherty's Witness and Exhibit List because the Sealed Exhibits discuss information designated as confidential by agreed protective orders entered in this matter (Docket Nos. 67 and 77) (the "Protective Orders"); and (b) granting related relief; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. § 1409; and this Court having found good cause for the relief requested in the Motion; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED**.

2. Highland is authorized to file Highland's Sealed Exhibits under seal.

3. Daugherty is authorized to file Daugherty's Sealed Exhibits under seal.

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

4. Any confidential information contained in the Sealed Exhibits shall remain confidential and under seal.

5. Any and all testimony and documentary evidence disclosing any confidential information at any hearing discussing the Sealed Exhibits shall be sealed at such hearing.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. The Parties are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

 # # # END OF ORDER # # #

Submitted by:

GRAY REED

By: */s/ Andrew K. York*

Jason S. Brookner
Texas Bar No. 24033684
Andrew K. York
Texas Bar No. 24051554
Joshua D. Smeltzer
Texas Bar No. 24113859
J. Reid Burley
Texas Bar No. 24109675
Drake M. Rayshell
Texas Bar No. 24118507

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
rburley@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

-and-

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC
/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100

Counsel for Highland Capital Management, L.P.

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant/Counter-Plaintiff.	§	

[1] Highland's last four digits of its taxpayer identification number are (8357). The service address for Highland is 6333 Mockingbird Ln., Ste 147 #5045, Dallas, Texas 75214.

HIGHLAND CAPITAL MANAGEMENT, L.P.'S SECOND SUPPLEMENT TO SECOND AMENDED WITNESS AND EXHIBIT LIST WITH RESPECT TO TRIAL TO BE HELD ON APRIL 17, 2026

Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above-captioned chapter 11 case (the "Bankruptcy Case") and plaintiff/counter-defendant in the above-captioned adversary proceeding (the "Adversary Proceeding"), by and through its undersigned counsel, submits the following second supplement (the "Second Supplemental Witness and Exhibit List") to *Highland Capital Management, L.P.'s Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026* [Docket No. 107] (the "Second Amended Witness and Exhibit List") with respect to (a) Highland's *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty* [Docket No. 1], and (b) *Patrick Daugherty's Answer to Plaintiff Highland Capital Management, L.P.'s Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Hagaman Daugherty [Docket No. 1] and Original Counterclaim* [Docket No. 39], which the Court set for trial at 9:00 a.m. (Central Time) on April 17, 2026 (the "Trial") in the Adversary Proceeding.[2]

A. Witnesses:

1. James P. Seery, Jr.;
2. David Klos;
3. Patrick Daugherty;
4. Trevor Jason Liles-Tims;

[2] This Second Supplemental Witness and Exhibit List is being filed to include on the docket one additional exhibit introduced by Highland and admitted by the Court at the Trial.

5. Any witness identified by or called by any other party; and

6. Any witness necessary for rebuttal.

B. Supplemental Exhibits:[3]

Number	Exhibit	Offered	Admitted
67.	11/24/25 J. Morris email to J. Seery and others re: Settlement Proposal on HERA/ERA Books and Records		
68.	Any document entered or filed in Highland Capital Management, L.P.'s chapter 11 Bankruptcy Case or any associated adversary proceeding, including any exhibits thereto		
69.	All exhibits necessary for impeachment and/or rebuttal purposes		
70.	All exhibits identified by or offered by any other party at the Trial		

[*Remainder of Page Intentionally Blank*]

[3] For the avoidance of doubt, the exhibits identified in this Second Supplemental Witness and Exhibit List supplement the exhibits listed in (i) the Second Amended Witness and Exhibit List filed on April 15, 2026, and (ii) *Highland Capital Management, L.P.'s First Supplement to Second Amended Witness and Exhibit List with Respect to Trial to Be Held on April 17, 2026* [Docket No. 128] filed on April 17, 2026.

Dated: April 20, 2026

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable
Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on April 20, 2026, a true and correct copy of the foregoing *Second Supplemental Witness and Exhibit List* was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

EXHIBIT 67

From: John A. Morris
To: Jim Seery; Tim Cournoyer; David Klos
Cc: Jeff Pomerantz
Subject: FW: Highland: Settlement Proposal on HERA/ERA Books and Records
Date: Monday, November 24, 2025 2:35:56 PM
Attachments: grayreed40thanniversary_776cb36b-8781-4a34-a4ad-ddc5f9a4202d.png

---

FYI.

Not surprised . . .

John A. Morris
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 212.561.7760
Tel: 212.561.7700 | Fax: 212.561.7777
jmorris@pszjlaw.com
vCard | Bio | LinkedIn



Los Angeles | New York | Wilmington, DE | Houston | San Francisco

---

From: Drew K. York <dyork@grayreed.com>
Sent: Monday, November 24, 2025 3:27 PM
To: John A. Morris <jmorris@pszjlaw.com>; mbobo@mwblawyer.com
Cc: Jeff Pomerantz <jpomerantz@pszjlaw.com>; Drake Rayshell <drayshell@grayreed.com>
Subject: RE: Highland: Settlement Proposal on HERA/ERA Books and Records

Hi John,

Mr. Daugherty rejects Highland's proposal.

Regards,
Drew

Drew K. York
Partner
Tel 469.320.6114 | Fax 469.320.6883 | dyork@grayreed.com
1601 Elm St., Suite 4600 | Dallas, TX 75201
grayreed.com | Connect with me on LinkedIn



CONFIDENTIALITY NOTICE: This electronic transmission and any attachments constitute confidential information which is intended only for the named recipient(s) and may be legally privileged. If you have received this communication in error, please contact the sender immediately. Any disclosure, copying, distribution or the taking of any action concerning the contents of this communication by anyone other than the named recipient(s) is strictly prohibited.

From: John A. Morris <jmorris@pszjlaw.com>
Sent: Thursday, November 20, 2025 9:36 AM
To: mbobo@mwblawyer.com; Drew K. York <dyork@grayreed.com>
Cc: Jeff Pomerantz <jpomerantz@pszjlaw.com>; Drake Rayshell <drayshell@grayreed.com>
Subject: [EXTERNAL] RE: Highland: Settlement Proposal on HERA/ERA Books and Records

I am following up here.

Highland is incurring meaningful expenses addressing Mr. Daugherty's counterclaims.

If we do not receive a constructive response to the proposal below by 5:00 pm Central Time on Monday, November 24, the proposal will be deemed withdrawn without further notice.

As always, we're available to confer.

Regards,

John

John A. Morris
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 212.561.7760
Tel: 212.561.7700 | Fax: 212.561.7777
jmorris@pszjlaw.com
vCard | Bio | LinkedIn



From: John A. Morris
Sent: Monday, November 17, 2025 1:33 PM
To: mbobo@mwblawyer.com; Drew K. York <dyork@grayreed.com>
Cc: Jeff Pomerantz <jpomerantz@pszjlaw.com>; Drake Rayshell <drayshell@grayreed.com>
Subject: Highland: Settlement Proposal on HERA/ERA Books and Records

Bo and Drew,

Now that we have resolved the Destruction Motion, Highland believes we should try and resolve Mr. Daugherty's counterclaims in a way that gets him what he apparently wants while mitigating the burden to Highland.

The sole issue in dispute is whether e-mails are part of the HERA/ERA books and records (the parties' positions are clear and need not be repeated here).

In his *Second Amended Complaint* filed in the Delaware Chancery Court on February 22, 2019, Mr. Daugherty alleges that the wrongdoing relating to HERA/ERA began in February and March 2012, culminating in the asset assignment in April 2013. *See* Amended Complaint ¶¶ 22-39.

Based on that, Highland is prepared to conduct reasonable searches of up to four custodians for the period January 1, 2012, through April 30, 2013, and produce all "hits" without the assertion of any privilege in exchange for the dismissal with prejudice of Mr. Daugherty's counterclaims and the exchange of mutual general releases between Highland and HERA/ERA and a limited release from Mr. Daugherty with respect to all duties and obligations arising under paragraph 8 of the Settlement Agreement.

Such a settlement would eliminate the risk that Mr. Daugherty obtains nothing, promptly puts the potentially relevant documents in his hands, mitigates Highland's burden, and allows the parties to avoid all attorneys' fees and expenses arising from the litigation of Mr. Daugherty's counterclaims.

If that makes sense, please propose custodians and search terms and we'll respond quickly.

Regards,

John
John A. Morris
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 212.561.7760
Tel: 212.561.7700 | Fax: 212.561.7777
jmorris@pszjlaw.com

vCard | Bio | LinkedIn



Los Angeles | New York | Wilmington, DE | Houston | San Francisco

---

DISCLAIMER- This email is intended for the recipient(s) only and should not be copied or reproduced without explicit permission. The material provided herein is for informational purposes only and does not constitute an offer or commitment, a solicitation of an offer, or any advice or recommendation, to enter into or conclude any transaction. It may contain confidential, proprietary or legally privileged information. If you receive this message in error, please immediately delete it.

BTXN 208 (rev. 07/09)

IN RE: Highland Capital Management, L.P. v. Daugherty et al

DEBTOR

Trial on the Complaint

TYPE OF HEARING

Case # 25−03055−bwo

Highland Capital Management, L.P.

PLAINTIFF / MOVANT

VS

Patrick Hagaman Daugherty

DEFENDANT / RESPONDENT

John A. Morris

ATTORNEY

Andrew K. York

ATTORNEY

EXHIBITS

Highland Capital (attorney John A. Morris): Exhibits attached to Dkt. Nos. 107 & 128 subject to outstanding relevance objections to Exs. 43−46 and limitation on Exs. 21, 26, 27 are admitted as stated; Exhibits attached to Dkt. No. 109−123 are sealed exhibits which are admitted; Ex. 67 admitted

Exhibits attached to Dkt No. 105 & Dkt. No. 126 except Exs. 58−77 are admitted without objection; Exhibits attached to Dkt. No. 125 are sealed exhibits which are admitted; Ex. 99 admitted

M. Edmond

REPORTED BY

4/17/2026

HEARING DATE

Brad W Odell

JUDGE PRESIDING

BTXN 119 (rev. 03/19)

AUDIO / TRANSCRIPT ORDER

1. ORDER REQUEST: ☐ DUPLICATE OF AUDIO CD Recordings Only ☒ TRANSCRIPT	2. DATE OF ORDER: 5/13/2026	FOR COURT USE ONLY DUE DATE:
3. NAME: Melanie Holmes	4. PHONE NUMBER: 972-755-7105	5. EMAIL ADDRESS: mholmes@haywardfirm.com
6. MAILING ADDRESS: 10501 N. Central Expy., Ste. 106	7. CITY: Dallas	8. STATE: TX / 9. ZIP CODE: 75231
10. CASE NUMBER: 25-03055 / 11. CASE NAME: Highland v. Daugherty	12. JUDICIAL OFFICIAL: O'Dell	13. DATE OF PROCEEDING: FROM: 04 / 17 / 2026

14. ORDER FOR: ☐ APPEAL ☒ BANKRUPTCY ☐ OTHER

15. ORDER:

	ORDINARY	7 DAY EXPEDITED	DAILY	HOURLY	14 DAY EXPEDITED	3 DAY EXPEDITED
A.	☐	☐	☐	☒	☐	☐

16. AUDIO/TRANSCRIPT REQUESTED Specify portion(s) and date(s) of proceeding(s):

PORTION(S)	PORTION(S)
☒ ENTIRE HEARING	☐ TESTIMONY (SPECIFY WITNESS)
☐ OPENING STATEMENT (PLAINTIFF)	
☐ OPENING STATEMENT (DEFENDANT)	
☐ CLOSING ARGUMENT (PLAINTIFF)	☐ VOIR DIRE
☐ CLOSING ARGUMENT (DEFENDANT)	☐ OTHER (SPECIFY)
☐ COURT RULING ONLY	

CERTIFICATION

By signing 17. & 18, I certify that I will pay all charges (deposit plus additional as specified by the assigned transcriber).

17. SIGNATURE: /s/ Melanie Holmes

18. DATE: 5/13/2026

COURT USE ONLY

A. PROCESSED BY:		B. TRANSCRIPT TO BE PREPARED BY:	
PHONE NUMBER:		ADDRESS:	
EMAIL ADDRESS:		TELEPHONE: EMAIL ADDRESS:	
C. PARTY RECEIVED AUDIO:	DATE:	BY:	$31 FEE PAID:

DISTRIBUTION: COURT COPY ORDER RECEIPT ORDER COPY

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

IN RE:	)	BK. NO: 19-34054-SGJ
	)	
HIGHLAND CAPITAL	)	
MANAGEMENT, L.P.	)	
D E B T O R.	)	
HIGHLAND CAPITAL	)	ADV. NO: 25-03055-BWO
MANAGEMENT, L.P. v	)	
PATRICK DAUGHERTY	)	

* * * * * * * * * *

TRANSCRIPT OF PROCEEDINGS

* * * * * * * * * *

BE IT REMEMBERED, that on the 17th day of April, 2026, before the HONORABLE BRAD W. ODELL, United States Bankruptcy Judge at Dallas, Texas, the above styled and numbered cause came on for hearing, and the following constitutes the transcript of such proceedings as hereinafter set forth:

CINDY SUMNER, CSR (214) 802-7196

I N D E X

PAGE

DAVID KLOS

DIRECT EXAMINATION
BY: Mr. Morris 44
CROSS-EXAMINATION
BY: Mr. Rayshell 60
REDIRECT EXAMINATION
BY: Mr. Morris 85

T.J. LILES-TIMS

DIRECT EXAMINATION
BY: Mr. Morris 87
BY: Mr. Burley 130
REDIRECT EXAMINATION
BY: Mr. Morris 157

JIM SEERY

DIRECT EXAMINATION
BY: Mr. Morris 176
CROSS-EXAMINATION
BY: Mr. York 212

PATRICK DAUGHERTY

DIRECT EXAMINATION
BY: Mr. Morris 246
BY: Mr. York 286
REDIRECT EXAMINATION
BY: Mr. Morris 299
FURTHER REDIRECT EXAMINATION
BY: Mr. Morris 307

E X H I B I T I N D E X

	PAGE FIRST REFERENCED
Highland Exhibit 1	279
Highland Exhibit 2	191
Highland Exhibit 3	194
Highland Exhibit 4	200
Highland Exhibit 5	70
Highland Exhibit 8	151
Highland Exhibit 9	158
Highland Exhibit 10	105
Highland Exhibit 11	204
Highland Exhibit 12	247
Highland Exhibit 11	204
Highland Exhibit 15	100
Highland Exhibit 16	101
Highland Exhibit 17	102
Highland Exhibit 40	207
Highland Exhibit 41	207
Highland Exhibit 51	197
Highland Exhibit 52	185
Highland Exhibit 53	198
Highland Exhibit 54	198
Highland Exhibit 60	252
Highland Exhibit 65	48
Highland Exhibit 67	

E X H I B I T I N D E X C O N T I N U E D

	PAGE FIRST REFERENCED
Daugherty Exhibit 14	219
Daugherty Exhibit 17	143
Daugherty Exhibit 32	142
Daugherty Exhibit 36	223
Daugherty Exhibit 42	297
Daugherty Exhibit 46	297
Daugherty Exhibit 57	286
Daugherty Exhibit 82	135
Daugherty Exhibit 95	288
Daugherty Exhibit 96	289
Daugherty Exhibit 98	292
Daugherty Exhibit 99	238

P R O C E E D I N G S

THE COURT: Good morning, everyone. Sorry we had a little bit of our own technical issues that we had to get ready. When you come to a new court, you've got to figure it out as a judge, too. Luckily Judge Jernigan keeps paper up here, which we'll start with the old traditional way.

All right. Very good. We will go ahead. We're here on a special setting. We'll go ahead and call the matter which is the matter of Highland Capital Management, L.P. versus Daugherty, case number 25-03055. Let me go ahead and start off with appearances first by the movant's counsel.

MR. MORRIS: Good morning, Your Honor. John Morris, Pachulski Stang Ziehl & Jones. I'm here on behalf of the plaintiff Highland Capital Management. I am joined by Highland's chief executive officer, Jim Seery, Highland's chief operating officer and chief financial officer, David Klos, Highland's general counsel, Tim Cournoyer, and my co-counsel, my local co-counsel, Zach Annable. We're pleased to be here today.

THE COURT: Welcome.

All right. Counsel for the defendant, for the responding party, we'll put it that way.

MR. YORK: Good morning, Your Honor, Drew York from Gray Reed on behalf Patrick Daugherty. With me today is

not just Mr. Daugherty, but also from my firm two of our associates, Drake Rayshell, R-a-y-s-h-e-l-l, and then Reid, R-e-i-d, Burley, B-u-r-l-e-y. We also have our paralegal, Laura DeBerg here for AV. And then we also have T.J. Liles-Tims our expert from Weaver.

THE COURT: Okay. All right.

Let me -- let me start off by seeing, are we -- is there any announcements that need to be made by the parties?

MR. MORRIS: Good morning, Your Honor, John Morris again. A pleasure to be here.

Let me try and set the table as I can and then Mr. York can chime in, if I say anything incorrectly, or if he wants to supplement.

First of all, I want to thank Mr. York and his firm for cooperating in getting us to this point. This is a difficult job under the best of circumstances. And it becomes just a little bit easier when lawyers meet and confer properly, cooperate, and try to resolve issues, evidentiary issues. And we've done all of that. And so I thank him for that.

The way I think we've agreed to proceed today, Highland has no objection to any of Mr. Daugherty's exhibits. We had a bunch of relevance objections, but I think to the extent they are the subject of examinations, we can let the Court make any determination about what weight, if any, to give any particular document. So we're not going to object to any of

Mr. Daugherty's documents. I believe that Mr. Daugherty still has a handful of objections to Highland's documents. I'm prepared to proceed, you know, with my understanding of what those objections are. Once we get those matters out of the way, I think our expectation is that we'll proceed to opening statements, you know, as the plaintiff and the party who at least bears the initial burden we'll go first. Mr. York can make his opening statement. We're going to get right to the testimony after that.

I do -- I did tell Mr. York earlier this morning that Mr. Klos is one of our witnesses. It's a very limited examination relating to the estimate of Mr. Daugherty's claim. He's got a wedding out of town and I'd really love to get him on and off the stand so that he can catch his flight. So it may not thematically or logically fit in the proper order, but I'd really like to do that for Mr. Klos.

THE COURT: Okay. Mr. York.

MR. YORK: Thank you, Your Honor.

First, thank you to you and your staff for traveling to Dallas for this hearing today. And I concur with Mr. Morris that the professionalism between counsel trying to get us to narrow the issues has been very good.

We have a couple of issues with a couple of their exhibits, which I think we can take up. And then I agree, let's move to openings and then straight into the witnesses

so that we can keep this process moving today.

THE COURT: Okay. And so just real quick, Mr. York, so you filed your objections. All of those still are outstanding, or did you all confer and resolve any of those?

MR. YORK: We have conferred a little further, Your Honor. And if I may, my understanding is with respect to Highland's Exhibits 21, 26, and 27, they are not going to offer -- we had objected on hearsay grounds. They're not going to offer them for the truth of the matter asserted; is that correct, Mr. Morris?

MR. MORRIS: Yes, Your Honor.

MR. YORK: And based upon that, we will withdraw objection.

MR. MORRIS: Should I just address the balance?

MR. YORK: Sure. That's fine with me.

MR. MORRIS: Okay. So 29 to 34, Your Honor, are statutes and regulations. They are statutes and regulations relating to the Tax Code that Mr. Klos is relying upon in order to do an arithmetic calculation of the estimate of damages. You know, I don't know that they have to be on an exhibit list. I think the Court can certainly take judicial notice of the law. But they're certainly not hearsay. They're the law.

MR. YORK: So we're going to withdraw the objection to those, Your Honor.

THE COURT: Okay.

MR. MORRIS: The next group is really limited. It's Exhibit 43 to 46. And what those documents are are documents relating to pleadings, judgments, and verdicts from a long time ago litigation between Mr. Daugherty, Highland, and other parties. There is a relevance objection to that. And if I may just quickly explain, Your Honor.

In Mr. Daugherty's second affirmative defense he alleges that Highland had breached his employment agreement. The fact of the matter is, Your Honor, in that earlier lawsuit Mr. Daugherty asserted a breach of contract cause of action. The jury in that case rejected his claim. And so we think that those documents are very important to show that the very defense that he's asserting today has already been rejected.

THE COURT: Okay.

MR. YORK: Your Honor, they're not relevant because if you look at the jury's verdict and the instructions specifically, none of those claims that were asserted were for breach of this specific issue with respect to any claim on the employment agreement. And, Your Honor, I'll go a step further. We actually are going to withdraw the prior material breach defense with respect to the

employment agreement. So I think that resolves that issue.

MR. MORRIS: It may. I want to be perfectly clear, Your Honor. As I think you may have seen in the joint pre-trial order, we set forth our contentions as clearly and concisely as we could instead of filing a pre-trial brief. It was just a matter of convenience. But our first cause of action is that their claim should be disallowed. And we offer three reasons for that.

One of those reasons, the third reason is that the claim should be disallowed because even if the contract was enforceable, even if the Court finds that Highland hadn't fulfilled its duties under the contract -- and we're talking about the tax and reserve claim here -- the third alternative is to why the claim should be disallowed is because under the terms of the employment agreement, it was waived, okay. And we have two -- we have two provisions that we rely on in the employment agreement. One just says that if it's a bonus and you're not at Highland at the time the payment is due, you have forfeited. The second is Section 4.5. Section 4.5 and that provision says that if Mr. Daugherty had signed what is referred to as Exhibit A, he would have gotten a severance. There's no dispute that he didn't sign Exhibit A. But that paragraph goes on to say if you don't sign Exhibit A, then Highland is absolved of all liability. And we're relying on Section 4.5 of the employment agreement to urge the Court to

disallow the claim on the grounds that he failed to provide Exhibit A. And that is exactly what he alleged in the Texas action.

So if you go to -- and so if that's what they're withdrawing, if they're withdrawing any claim that Highland breached the employment agreement by failing to provide Exhibit A, then I'll withdraw the Texas documents.

MR. YORK: Well, let's -- okay, so let's be clear. I'm not withdrawing the argument with respect to Exhibit A. But I can tell you that that issue was not an issue that the jury took up as part of the instructions and questions that they answered in that state court action. So it's irrelevant.

THE COURT: Okay.

MR. YORK: And let me back up. I need to give you some context too.

The exhibits that they intend -- or that they're offering into evidence are the jury's verdict and the final judgment in that case.

MR. MORRIS: That's not exactly right.

THE COURT: Okay. Well, let me -- let me make sure I understand, because I guess maybe I misunderstood.

What we have is outstanding evidentiary objections based on the motion. But it was my understanding we had a lot of hearsay objections. It sounds to me like we're

arguing relevancy at this point.

MR. MORRIS: Correct.

MR. YORK: Correct.

THE COURT: Can we not take up the relevancy issues during trial and if they decide if they want to put on that exhibit, we'll deal with it then as opposed to dealing with relevancy right now?

MR. MORRIS: That's fine.

THE COURT: Okay. So where does that leave us then on all remaining exhibits for Highland?

MR. MORRIS: I think there's only one, which is 47, which is also a relevance exception -- relevance objection.

MR. YORK: I'm fine with that. We'll withdraw 47 objection. There's one more.

MR. MORRIS: I'm sorry, hold on. So the objection is withdrawn to 47. The objection is withdrawn to 29 to 34. We have the limitation of 21, 26, and 27 that it's not being offered for the truth of the matter asserted. And then 43 to 46, the Court will deal with it as it comes.

MR. YORK: There was one more.

MR. MORRIS: Okay.

MR. YORK: Highland's Exhibit 57, which is the transcript of T.J. Liles-Tims. And we're just objecting under Rule 32, Your Honor. He's here to testify live.

Certainly if they believe there's something from his deposition testimony they want to impeach him with, I understand. But if they're offering it somehow affirmatively and the witness is here, let's deal with it with live testimony rather than through his deposition.

MR. MORRIS: Your Honor --

THE COURT: Mr. Morris.

MR. MORRIS: -- I don't want to burden the Court. That's fine.

THE COURT: Okay.

MR. YORK: I'm not sure that's accurate, but I don't want to debate the point.

THE COURT: Okay. So does that then resolve all document objection -- objections to documentary evidence, other than obviously we're reserving 43 through 46?

MR. YORK: Correct. And --

THE COURT: Go ahead, Mr. York.

MR. YORK: So one other housekeeping matter, Your Honor. So on Daugherty's exhibit list we are going to withdraw 58 through 77.

THE COURT: 58 through --

MR. YORK: 77. And I told Mr. Morris about this earlier this morning.

THE COURT: Okay. All right. So do we -- are you all wanting to each move for the admittance of all these

exhibits at this point? Yes?

MR. YORK: Yes.

MR. MORRIS: Yes, Your Honor. I'll put it this way, Highland moves for the admission of all of its exhibits that were filed at Docket Numbers 107 and 128, subject to the outstanding relevance objections to 43 to 46 and subject to the limitations of 21, 26, and 27.

THE COURT: All right. Let me address those first and then, Mr. York, we'll have you go.

So I have an offer for admission into evidence all exhibits that were filed at Docket Number 107 and 128 with the limitation being applied to Exhibits 21 and then 26 and 27. And then dealing with relevancy at the time of testimony for Exhibits 43 through 46.

Do I have any objections?

MR. YORK: No, Your Honor.

THE COURT: Okay. Those will be admitted as stated.

All right, Mr. York.

THE COURT: Daugherty moves to admit, Your Honor, the exhibits on his witness and exhibit list, which is -- excuse me, his second amended witness and exhibit list, Docket Number 105, as well as the supplement, first supplemental that was filed thereto, which is Docket Number 126, with the exceptions of Exhibits 58 through 77.

MR. MORRIS: No objection.

THE COURT: All right. Then those documents will be admitted, as well.

All right. So I think that moves us to opening statements. All right, Mr. Morris.

Actually, one moment before I get started. I just recognized this. We have on the Webex a party appearing, or having a phone number with 313 and ending in 44. Would you please announce who you are?

Again, this is Judge Odell. We have a party with a phone number of Area Code, what appears to be Area Code 313 and then ending in 44. Please announce for the record who you are.

All right. Hearing no response, we're going to exclude that number as this will be an evidentiary hearing.

So you may proceed, Mr. Morris.

MR. MORRIS: Thank you very much.

Good morning, Your Honor, John Morris, Pachulski Stang Ziehl & Jones on behalf of Highland Capital Management.

We filed earlier this morning, pursuant to Your Honor's rules, a demonstrative exhibit that I'm going to use in my opening statement that was filed this morning at approximately 7:00. It's at Docket 128. I've provided hard copies of that to counsel. Would you like -- would Your Honor prefer to have a hard copy?

THE COURT: If you have one available, that would be great.

MR. MORRIS: I do.

THE COURT: Thank you.

MR. MORRIS: Okay. So just moving to the first slide. I'll try to be as quick as I can here, Your Honor. This is a very narrow set of issues, I think, that the Court has to consider. Mr. Daugherty is a former employee and partner of Highland Capital Management. He filed a number of proofs of claim. They got consolidated into what was called Claim 205. You'll hear testimony today that prior to confirmation or on the eve of confirmation we struck a deal with Mr. Daugherty to resolve all but what is now being referred to as the reserved claim. We presented that to Judge Jernigan at confirmation. For reasons that Mr. Seery will testify to, that original agreement never got reduced to a signed writing. Certain events occurred that led the parties to negotiate further and eventually they got to a settlement in November of 2021.

Highland today is asking the Court to do a couple of things. We are asking the Court to disallow the claim in its entirety. That claim has been fully reserved at an amount of $2.6 million since way back in the day. That number was not negotiated. That number was not drawn out of thin air. It is the maximum amount that Mr. Daugherty asserted in his

proof of claim for the reserved claim. And we'll get to that issue shortly. But it's $2.6 million. That's the reserve number. We're looking to disallow that claim. If the claim is not disallowed, we're looking to estimate that claim pursuant to Section 502 of the Bankruptcy Code. Under Section 502, the Court shall estimate the claim if the failure to do so will unduly delay the administration of the case. And we believe that that latter issue of the administration and the delay of the administration of the case is exactly what Judge Jernigan decided last fall and why we're here today. That's why we're here today, because the claim has to be decided before August 11th, 2026, as you'll hear.

We had a cause of action for subordination, Your Honor. We've withdrawn that. It wasn't worth the fight. In addition to, you know, litigating over whether or not the claim should be subordinated, you have the ancillary issue if it was subordinated whether it would go into Class 10 or Class 11. And it just didn't seem to us to be worth it, so we withdrew that to try to speed this up today. And we withdrew it with prejudice. We said that in our joint pre-trial order. And I'll confirm that today.

And then Mr. Daugherty asserted several causes of action, breach of contract for the failure to provide the books and records of -- and specific performance and bad

faith.

If we move to the next slide, Your Honor, I want to just deal with the first cause of action for Highland. We don't think the so-called contract is enforceable because it is vague and has missing terms. We've addressed this very specifically in paragraphs 30 to 39 in the joint pre-trial order. That can be found at Docket 101. So I don't want to repeat everything that's in there. We've highlighted for you on this slide those portions of the statement that we believe are vague and ambiguous. We've identified the reasons why those terms are vague and ambiguous. And I would just ask Your Honor to look at what's in the box.

This is the entirety of the so-called contract that Mr. Daugherty is seeking to enforce. It is three sentences. The first sentence has nothing to do with anything. It says, refund is an estimated amount. Although it's interesting that he's trying to enforce a contract that's based on an estimated amount but he's here to tell you today you can't estimate what the number is, right. But that's what it says. And then the last sentence is kind of irrelevant too. It just says, Hey, you're going to receive the refund in approximately four months. So really the entire so-called contract can be boiled down to a single sentence. And we believe those terms are vague and ambiguous. And obviously that very simple sentence doesn't include any of the concepts

that Mr. Daugherty is trying to introduce here today. It doesn't say anything about indemnity. It doesn't say anything about guaranteeing a particular result. It doesn't say that Highland is going to reimburse him a nickel. It doesn't say that Highland is going to cover. It doesn't refer to an audit. It doesn't refer to penalties or interest. So we believe that the claim should be disallowed because the contra -- this sentence is not enforceable. It's not an enforceable contract.

Even if it was, you will hear testimony that Highland fulfilled its obligations by issuing a (k)(1) that had the losses that Mr. Daugherty could utilize in order to obtain a refund. And they did exactly that. And now we get to the point that we were talking about earlier, the third alternative for disallowance of the claim, even if the Court finds that the contract is enforceable, even if the Court finds that Highland didn't satisfy its obligations, if the tax refund was, in fact, a bonus, Mr. Daugherty forfeited it when he resigned. Why did he do that? Because his employment agreement says that.

In paragraph 3.1(a) we've highlighted the sentence that says the executive must be employed on the payment date in order to be eligible for the bonus. We may dispute a number of things today, Your Honor. One of the things we are not going to dispute is that Mr. Daugherty is not employed by

Highland today and hasn't been for more than a decade. So, you know, from our perspective under 3.1(a) the Court can certainly disallow the claim based on the fact that he is not employed by Highland and whatever payment he may or may not get, whatever right he may be entitled to is going to be in the future and I don't think there's going to be any evidence that he's likely to be rehired by Highland.

And Mr. Daugherty knows this. If you go to the next slide. As he was walking out the door he and Mr. Dondero got into a very heated debate over what Mr. Daugherty was owed. And this is Mr. Daugherty's email that he sent to Mr. Dondero just before he quit, probably moments before he quit. And among the other things he said, For the record, the agreement has always expressly noted that I would have to be employed at Highland in order to get any payment of bonus. And has always been the case. So he knew it then that he had to be employed in order to get a bonus. He's going to tell you today that this tax refund was in lieu of a bonus. He's not employed today at Highland. He doesn't get a bonus. He doesn't get any more money from Highland.

If we move to the next slide, Your Honor. This is like the (b) part of number three, if you follow me. Disallowance because it's vague and ambiguous and is missing key terms. Number two, disallowance because Highland has performed. And then three has (a) and (b) and I just did the (a), 3.1. The

(b) of 3. -- of number three is 4.5. And this is what I referring to earlier. It has this reference and it says, voluntary termination. And there won't be any dispute that Mr. Daugherty voluntarily resigned. And he had a choice to make at that moment in time. He could either sign what was Exhibit A, there's no obligation in this -- in this provision that required Highland to do anything.

You'll see attached to the employment agreement, which is Exhibit 11, you'll see attached to the employment agreement is Exhibit A. All right. And all Mr. Daugherty had to do -- it says, if the executive signs and returns. All he had to do was sign it and send it back to Highland. But he didn't want to do that. Because if he did that, he would have only been entitled to six weeks of severance and he would have had to give Highland a release. So he didn't do it. And that's okay. That was his right. He wasn't obligated. It doesn't make him a bad person because he didn't send Exhibit A back. But that's what -- that's what he was required to do. And it says, if the executive declines to do so, he gets no severance and the company has no further liability or obligation to the executive under this agreement or in connection with his employment or termination. That's it. Don't send it back, it's fine.

But a funny thing happened. And you'll see this -- you'll see this in the evidence. Before Mr. Daugherty walked

out the door and they got engaged in that lawsuit that I told you about earlier, they did try to negotiate some other form of severance package. And you'll see an exhibit where Highland send to Mr. Daugherty a form of severance agreement that has the exact same language that he's now trying to engraft onto the compensation statement, that one sentence of the compensation statement. You'll see the exact same -- so after -- this is 2 1/2 years later. He quits. He doesn't want to sign Exhibit A. No problem. They negotiate. Highland sends him a form of severance agreement. It's an all or nothing deal. No doubt about it. But here's the killer. The killer is that in that very document, it has the very indemnity for tax obligations arising from Highland's tax returns that he's now trying to tell you was somehow in this other one-sentence paragraph. Like why would you do that? Why would you put into an agreement what you thought you already had? Nobody would do that.

Let me move on. So then we get to the second cause of action, which is the next slide. This cause of action asks the Court to do what 502 mandates and that is estimate the claim in the event that the failure to do so will unduly delay the administration of justice. Again, we'll present evidence, but I think it's already law of the case. Judge Jernigan decided this issue last fall when she denied the motion to dismiss and granted the Rule 60 motion. She did it

precisely because this claim had to be completed before August 11th. And why is that the case, Your Honor? You'll hear Mr. Seery testify it's deep, deep, deep, deep in the record in this case on multiple motions. Under the plan and the claim and trust agreement there was a five-year life span for the claim and trust. That was the agreement with the creditors. It was the agreement with the creditors, including Mr. Daugherty. It was going to be a three-year term subject to two one-year extensions upon motion and upon Court approval. And that's exactly what happened.

Just before the end of the third year, we had to make a motion. We had to get approval from the Court to extend the life of the trust one more year. We did it again last June. We were in this courtroom on June 25th. Mr. Daugherty was there. Dugaboy, who you'll hear about more in the coming days, objection to the extension of the life of the trust by one more year. We resolved that objection by saying, we're going to live with the terms of the agreement. And, you know, unless something changes, we have no expectation that we're going to need that. And so Judge Jernigan extended the life of the claim and trust by one more year until August 11th, 2026, the five-year anniversary of the effective date of the plan.

And so that's where we are. And so I think we'll easily be able to meet that second part of 502. I think it

is law of the case. But be that as it may, Mr. Seery will touch on that for a few minutes during his testimony.

So what is the slide that's before you? It's math. It's arithmetic. It's not expert -- there's no expert analysis here. What Mr. Klos is going to testify to is that there are a number of different factors that must be considered in order to estimate Mr. Daugherty's claim. And you'll see the highlighted pieces are fixed numbers. There's not an ounce of subjectivity to them. There is no debate about the amount of Mr. Daugherty's partnership interest or the highest applicable tax rate of 35 percent. I mean, if Mr. Daugherty wants to tell us it should be 34 percent, we'd listen. But there's no subjectivity to that. There's no subjectivity to the interest rate. There's no subjectivity to the time period. And all the Court has to do is determine what is, you know, a fair estimate of the adjustment that the IRS might -- not even that the IRS might make. The IRS has already made its adjustment. What's happening now is a dispute resolution process. The IRS made its determination back in late 2017, 2018. And all that's happening now is you have mediation. You have settlement negotiations. You have an appellate process within the IRS. You might go to tax court. All that's happening now is a dispute resolution mechanism. And so all Mr. Klos is going to tell you -- and by the way, I just want to talk about Mr. Klos for just a

moment.

Mr. Klos is a CPA. He's the CFO. We're not offering him as an expert. But he has a lot of experience with tax returns. He has some experience with audits. This is what he does every day. And, again, there's no subjectivity anywhere on this document and that's the important point the Court -- that I want to emphasize to the Court, not expert opinion. We didn't think that we had to go do that.

You've got five scenarios on the top. The first is that -- let's start from the right side, the fifth scenario. That is $166 million. That's the amount that the IRS determined back in December 2017 was the adjustment that should be made to Highland's 2008 income tax returns. Right. It can't get more than that. That was the determination that was made way back in the day. You will hear testimony that it's never changed.

Moving to the left. What's number four? Number four is a settlement proposal that we -- that we have in the record that we cite to that the IRS made to the tax matter's partner which is, you know, controlled by Jim Dondero. So that $129 million number, that's not subjective. That's not anything we did. We just said, hey, that's a data point. The Court can consider the offer that the IRS made.

What's number three? It's 50/50, right. We're not presenting -- we're not here -- we're not here handicapping

as to the likelihood that anybody is going to succeed or not succeed. But that would be a reasonable estimate, it's 50/50.

What is number two? That is Mr. Dondero's offer. Mr. Dondero offered to settle this at $8 million and Mr. Klos will walk you through that.

And case number one is a complete victory by the tax matter's partner. And, of course, neither Mr. Daugherty nor any of the former limited partners of Highland would owe a nickel.

So, you know, Mr. Klos does this stuff every day. There's not a wit of subjectivity that's brought to it. It's simply arithmetic. I think -- I think their expert is going to agree with most of what I just said. So you'll hear that.

If we move to the next slide, we get to Mr. Daugherty's claim. It's a books and records claim. As part of the settlement, Highland agreed to transfer its interests in two shell companies called HERA and ERA, I think it's Highland Employee Retention Assets, or something like that. There won't be any dispute those entities never had any employees. They never had any operations. They never had -- they never leased office space. They never had a server. They never had anything, right. They had a couple of assets that they held for the benefit of certain individuals. That and nothing more.

It had nothing to do with Mr. Daugherty's claim as filed. But nevertheless, in order to get to yes, Highland agreed to transfer its ownership interest in those two interests -- in those two entities to Mr. Daugherty. And it did so. And we'll show you the transfer documents to show just what it meant by transferring the interests. These were limited liability companies, so there's no shareholders. There's no common stock. They're limited liability companies. And the ownership of a limited liability company, you'll hear Mr. Seery testify, is reflected in membership interests. And that's what Highland agreed to transfer. And that's what Highland did transfer.

But what do we have? We have the sentence under -- above the red. And we have one sentence before. That's the entirety of the agreement on the reserve claim. And this is one sentence above the red that's the entirety of the three causes of action that Mr. Daugherty is asserting. And what does it say? I think we all believe that it's plain and unambiguous. It says, such transfer will include the HERA and ERA books and records (spreadsheet maintained on Highland's system). That's it. That's all it says.

I mean, there's some other, we believe, relevant information that we've highlighted in yellow. We say that it's clear that the transfer will be without any liability or material cost to Highland. You know, we'll give you the

books and records of HERA and ERA.

But what has Mr. Daugherty done? If you go -- well, let's talk about what Highland did first. If you'll go to the next page, Your Honor.

You can see we made two enormous document dumps to Mr. Daugherty. The first was just a couple of weeks after the settlement got approved by Judge Jernigan on May 5th. You'll find this at Exhibit 2. Highland delivered corporate books, governing documents, historical financial records, historical tax returns. And we told Mr. Daugherty at that time that subject to one final look through, we believe the production completes Highland's obligations under the settlement agreement.

But Mr. Daugherty I think later in the summer, in the fall, starting asking for more information, for some backup. And so on October 19th, 2022 Highland delivered another large batch of documents. They reproduced everything that had produced earlier in May. And now they produced certain backup invoices, certain, you know, quarterly investor summaries. It's described there. I don't think there's any -- going to be any dispute whatsoever that Highland delivered all of this stuff within six months of the settlement. And, again, if you go to Exhibit 19 -- I'm sorry, it's Exhibit 3, it's the cover email from Mr. Seery to Mr. Daugherty and he again says, we're done here. We've

given you the HERA and ERA books and records. We said it before and we're saying it again, we're doing you a favor. We're going to give you some more stuff. But we'll done here. He literally says, upon transmission of the information, Highland will have satisfied all of its obligations. Our involvement in HERA and ERA, your entities, will be complete. It can't be any clearer than that.

We don't hear from Mr. Daugherty again for a year and a half, until Mr. York writes me a letter. And you'll -- you'll see this stuff as it comes into evidence. Mr. York at the end of January 2024 sends me a very formal letter and he says, I need all of this stuff on HERA and ERA. And I don't immediately respond. I don't know exactly why. It's not my practice not to respond, but I didn't for whatever reason. But I did -- I did in early March and I said, Drew, no, we're done. We told you we were done. We're done. Then he had another lawyer write to me, we need all of the stuff that relates to HERA and ERA. And he said, if you don't give it to us, we're going to sue you. And I wrote back, I said, we don't owe you anything. Please sue us. We need finality here. We can't keep doing this. But he didn't sue. Nobody did anything. Nobody tried to enforce their rights. Instead, actually, they did do something. What they did is they commenced this HERA and ERA action in federal court here in Dallas.

And so knowing, at least from Mr. Daugherty's perspective that he didn't have all of the books and records, he still nevertheless didn't rely on us. He went and had him file that lawsuit. That was his choice. But he did it with his eyes wide open. And what he's trying to do here today is to get you to order us to produce something so that when he loses that Texas action, he can bring another claim against Highland and say, I lost because of you. I lost because you didn't give me the books and records. And he says it right in his pleadings. It says it in the last paragraph. It's Exhibit 1. He says it in his last paragraph for specific performance.

If the Court does not order Highland to comply with the terms of the settlement agreement and turnover the relevant books and records, whatever they may be, Daugherty will be irreparably harmed and he will be unable to adequately pursue his litigation that he's talking about. He's trying to manufacture a new claim today. That is what he's trying to do. But we need to focus -- I would encourage Your Honor to just focus on the plain and unambiguous provisions of the parties' agreement.

If we can go to the last slide. Because Mr. Daugherty completely represents what the very, very simple words are, the HERA and ERA books and records (spreadsheet maintained on Highland system). Highland has nothing to do with this,

except that it happens to hold certain of the HERA and ERA books and records. And, yet, in his answer at paragraph 14 Mr. Daugherty claims that he bargained for and obtained Highland's books and records related to HERA. I'm sorry, Your Honor, I mean no disrespect to Mr. Daugherty or his lawyers, but that's not what the provision above says in any way, shape, or form.

In their pre-trial brief they say that Highland failed to provide books and records that related to HERA and ERA. We didn't agree to provide books and records that relate to HERA and ERA. We agreed to provide the HERA and ERA books and records. They have to own them, not Highland. They again say that he's entitled to all ownership rights, property, data, documents, records relating to HERA and ERA. That's not what he bargained for. It's not what the plain and unambiguous language says. He needs all HERA and ERA materials. I don't even know what materials are. But he wants all of the materials in Highland's possession. He wants everything Highland possessed. Highland did not agree to give him anything, other than the HERA and ERA books and record (spreadsheet). And they only agreed to do so at minimal cost.

So I think what Mr. Daugherty had not done, what he's never done, this is not a document request. This provision of the settlement agreement is not discovery. He's trying

to -- he's trying to take discovery now. He could have served Highland with a subpoena in his federal action on behalf of HERA if he wanted to. I know there's a motion to dismiss. But nothing stops him from seeking leave. I mean, he can't do it now. It's years later. That motion was made two years ago. I would object on that basis alone. But he had so many opportunities. This is not the one. This is a contract.

We're here today to debate the meaning of a contract. We're not here to give discovery. We're not here to cause Highland to produce any books and records. We're not here to produce things that are related to HERA and ERA. We're here to see if Highland complied with its obligations to produce the HERA and ERA books and records. And we submit, Your Honor, that if you take a look at the prior slide and you take a look at the two letters from May 5th and October 22nd that are Exhibits 2 and 3, we are confident the Court will find that Highland in good faith with the term books and records provided more than they were ever required to provide.

That's all I have, Your Honor. Do you have any questions?

THE COURT: I do not. Thank you.

MR. MORRIS: Okay. Thank you very much.

THE COURT: Mr. York.

MR. YORK: Thank you, Your Honor. I'm a little old school. Do it without my own slides. But I will actually walk through some of what Mr. Morris had on his slides, point out some thing that he failed to mention to you.

So I want to start with a couple of housekeeping matters, just to make sure we're clear on something. Highland in the second page, second slide indicates that we have three causes of action; one, for breach of contract of the books and records; two, for specific performance; and then, three, relating to attorney's fees.

With respect to the breach of contract books and records. We do have that claim. We did assert both claim potentially for damages and then also for specific performance. We're only seeking specific performance today, Your Honor. I just wanted to be clear on that.

And then secondly, Your Honor, with respect to the attorney's fees. Given the Court's -- this Court's ruling on the motion to dismiss and also -- by Judge Jernigan and then, also, Your Honor's ruling with respect to the motion to stay, we're going to withdraw that without prejudice. We obviously, as you know, have appealed the issue on the motion to dismiss relating to the stay provision. But we're going to withdraw that without prejudice.

THE COURT: I don't know if I'm following you

there.

MR. YORK: I do not see how, given this Court's ruling, that this Court would find that there would be any bad faith in commencing the adversary proceeding --

THE COURT: Oh, okay.

MR. YORK: -- in violation of the stay provision in the parties' settlement agreement. Okay?

THE COURT: Okay. Now I understand. Thank you.

MR. YORK: So, Your Honor, let's first talk about the allowance issue. And Mr. Morris talked about how that the compensation and benefits statement is vague and unenforceable. Well, what Your Honor is going to hear is evidence today concerning what this provision actually meant in terms of that Mr. Daugherty was getting a true up. And I think I probably need to explain what was happening here so Your Honor fully understands.

In lieu of paying a cash bonus to Mr. Daugherty and to other executives at Highland, Highland decided that it would pay that bonus through its tax return in which it would claim losses and then attribute those losses to various profits interest partners' tax returns. And so instead of the cash having to come out of Highland's pockets, that bonus would ultimately be paid by the IRS through a refund.

And so the phrase refund is an estimated amount there

is something that Highland came up with. And it was accurate at the time, because it was something that Highland was simply estimating what it believed the refund amount would be, but it would be different depending upon the particular profits interest partners' situation in terms of their overall tax return that they were filing.

No one disputes, as Mr. Morris said, that Mr. Daugherty received a refund. And that's critical, Your Honor, to the fact that that meets the burden under Section 3.1 of Mr. Daugherty's employment agreement that the bonus be paid. The issue that we're here on is Mr. Daugherty's contractual right to be trued up at the end of the day if what Highland was attempting to pay and promised to pay through this refund is not what Mr. Daugherty actually ultimately gets because Highland has its partnership return amended and changed due to the IRS' audit, which is exactly what Highland promised to Mr. Daugherty at the time that they gave him the compensation of benefits statement in February of 2009, when he was still employed at Highland. And that's also why, contrary to Mr. Morris' arguments, Highland did not fulfill its obligations, because it has the obligation still to true up Mr. Daugherty if and when and once the IRS audit dispute is fully and finally resolved.

Mr. Morris said that Mr. Daugherty forfeited his tax refund rights once he resigned. And he pointed Your Honor to

slide 6, the section 4.5. And I want to talk about that in specific detail because there are two problems with Mr. Morris' argument. The first one is, Your Honor, he fails to point to the very first sentence in Section 4.5 which provides that in the event the executive terminates his or her continuous status as an executive and is not employed with a competing business within one year, the company shall have no further liability or obligation to the executive under the agreement or in connection with his or her employment hereunder, except -- and go to clause 3, Your Honor -- any amounts or rights to which the executive is entitled under any other written agreements with the company. That's exactly what the compensation of benefits statement is.

Additionally, Your Honor, as to the part that Mr. Morris highlights at the bottom, if you read the last two sentences of that part of 4.5 closely, what it's referring to is no right to severance if the form of the separation and release agreement is not signed. Severance being six weeks of base salary pay. It doesn't say that he's not entitled to any bonus that has been earned already.

Mr. Morris said that Mr. Daugherty declined to sign the separation and release agreement. And he did mention in passing that it was part of an all or nothing package. And that's important, Your Honor. Because what Highland

presented to Mr. Daugherty at the time in which he announced that he was resigning was a different settlement and release agreement form -- severance and release agreement form, excuse me. But also two other agreements, which they said, you have to sign these, as well. And you'll hear evidence as to why Mr. Daugherty objected to signing those other agreements because they related to interests that he had in vessels that Highland had created for employee retention. And it wasn't as if Highland was willing to accept just the separation and release agreement. It required an all or nothing at the end of the day. So Highland waived the provision, from its perspective, by demanding more than what it actually required.

At the end of the day what we have is a situation in which Mr. Daugherty had an accrued right to an unilateral contract with Highland. That is Highland would fully reimburse him for his liabilities associated with any changes to his personal taxes and his personal tax return that deviates from what the tax refund that Highland had promised him he would get in lieu of the cash bonus for that year.

So let's go to estimation. You're going to hear testimony, Your Honor, from T.J. Liles-Tims from Weaver that under the circumstances given where everything is at and what's known, that there are myriad of variables that are out there that it is impossible to reasonably and accurately

estimate what the ultimate liability could be to Mr. Daugherty as a result of the Highland IRS audit dispute. You're going to hear that the IRS audit dispute is still ongoing. That it's unclear when it's going to be resolved. It's unclear how it's going to be resolved.

Setting that aside for the moment, there are issues even with the estimation that Highland presents to the Court in the various categories. There are a myriad of assumptions that they've taken into account. And additionally, Your Honor, their -- their calculations do not include whatever interest and penalties Mr. Daugherty would continue to accrue after Highland filed its bankruptcy petition which would still be part of its principal liability. It's not as if it's a contractual interest that is accruing on a debt. It's part of its principal liability at the end of the day. And they're not even including that.

So, Your Honor, it is impossible to estimate what the potential liability is to Mr. Daugherty at the end of the day because there are a myriad of these unknown factors that remain in play due to the IRS audit dispute. Which, by the way, Highland will admit, Mr. Daugherty will also attest that neither really has any insight to because the IRS audit dispute is being handled by Strand Advisors, which is not -- which is the tax matters partner for Highland and is run by Jim Dondero.

So finally, Your Honor, I turn to the HERA books and records request claim. There's some context that the Court needs with respect to this, as well. And that is if you -- under the settlement agreement, the parties acknowledge that HERA and ERA had potential claims against, at that point in time, some current and some former Highland employees and executives relating to their activities when they were at Highland. And that under the terms of the settlement agreement, Mr. Daugherty was getting a transfer of the membership interest in Highland -- I'm sorry, in HERA and ERA in which then Mr. Daugherty on behalf of HERA and ERA could decide whether he wanted to proceed with any of those claims against those executives and other individuals.

And so the intent of the HERA and ERA books and records provision, as I call it, is that Highland would transfer to Mr. Daugherty not just its interest, a membership interest in HERA and ERA, but also the information and materials relating to those claims so that HERA and ERA could pursue them if they wanted to. Mr. Morris wants to focus on the parenthetical of spreadsheet in the agreement. And what he ignores is the fact that it says, such transfer will include. That is it's not an exhaustive list of some spreadsheet is the only thing that's going to be transferred. And you're also going to hear testimony and evidence that Highland transferred not a spreadsheet, but as Mr. Morris said, other

material and information that they had. But they didn't transfer everything. And that included invoices that HERA and ERA had been charged by various law firms relating to other litigation that had gone on, communications with those attorneys relating to those lawsuits and those claims, all of which gave rise to potential claims that HERA and ERA have against the executives and officers.

Mr. Morris also mentioned that there was a year and a half that passed between the time that the last transmission of information went and when I sent a letter. But what I failed to tell the Court and what the Court will hear evidence about is that there were numerous conversations going on between Mr. Daugherty and Mr. Seery discussing the books and records that Mr. Daugherty was seeking for HERA and ERA. And that Mr. Daugherty was trying to deal with this issue in a polite respectful manner and in a direct conversation between two business people.

And finally, Mr. Morris argues that the settlement agreement provides that Highland is only supposed to -- or only holds certain HERA and ERA books and records. That's not true. Because ultimately what, as Mr. Morris explained, HERA and ERA were a vessel that Highland was using for employee retention purposes. And so Highland was running HERA and ERA at the time. Highland is the one who controlled the possession, custody, and control of the books and records

and all of the information that related to HERA and ERA. Highland is the one who could transfer all of that information to Mr. Daugherty and to HERA and ERA, if it wanted to under the settlement.

And so what we're asking the Court to do is to order Highland to specifically perform and transfer those additional records and information so that HERA, not Mr. Daugherty, but HERA may utilize them in the lawsuit that it has filed against those executive separately in district court. All of which could have been done at a minimal cost through searches based upon the information that Mr. Daugherty had provided to Highland and to Mr. Seery and all of which all it had to be was emailed. And they didn't do it.

So we're asking the Court to order Highland to specifically perform in providing that information to Mr. Daugherty. You'll hear examples of what's missing as part of the evidence.

Thank you, Your Honor.

THE COURT: Thank you.

Before we get started on calling the first witness, let's take a quick 5-minute recess and then we'll be back out.

(Brief recess ensued.)

THE COURT: Okay. You may proceed,

Mr. Morris.

MR. MORRIS: Your Honor, I apologize, but I had one housekeeping item to clean up. Mr. Annable points out my errors. And I'm grateful for that.

THE COURT: Okay.

MR. MORRIS: And the only error that we have here, Your Honor, is I earlier moved into evidence the exhibits that were on Docket 107 and 128. We've gone through all of that. I'm not changing anything about that. But I do want to point out that at Docket 107 are only the documents that were filed that are not subject to the sealing order.

THE COURT: Okay.

MR. MORRIS: And so I just want the record to be clear that at Docket Numbers 109 to 123 are certain documents that the parties agreed to file under seal that Your Honor ordered to be filed under seal. They're reflected on the exhibit list that was filed on Docket 107, but I just wanted to clarify that if anybody ever wanted to find the actual documents, they would be at Docket 107 and then 109 to 123 and then 128.

THE COURT: Okay. All right. Mr. York, let me just ask you, do you have the same scenario? In other words, did you have some of your sealed documents that you wanted admitted into evidence that weren't already done, as you see it?

MR. YORK: Well, actually, so I think the exhibits between 109 and 123 are collectively the exhibits that were filed under seal. But we'll confirm all of that.

Let me confirm that, Your Honor.

THE COURT: Okay. We can come back to that at another time. But real quick while I have you there, Mr. York, so I've got an offer for admission into evidence Docket Numbers 109 through 123, which are the sealed documents. Do I have any objections?

MR. YORK: No objection.

THE COURT: Okay. Then documents that are located on the docket at Docket Numbers 109 to 123 will be admitted.

MR. MORRIS: Thank you very much.

THE COURT: Thank you.

MR. MORRIS: And with that Highland calls David Klos to the stand.

THE COURT: Mr. Klos, my law clerk over here will swear you in before you have a seat there.

(The witness was sworn by the Court's law clerk.)

(no omission)

DAVID KLOS

The witness, having been duly sworn to tell the truth, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q. Good morning, Mr. Klos. Can you hear me okay?

A. Yes.

Q. Okay. Let me know when you're comfortable.

A. I'm good. Thank you.

Q. Okay. Are you currently employed, sir?

A. Yes, I am.

Q. By whom?

A. Highland Capital Management, L.P.

Q. And when did you join Highland Capital Management, L.P.?

A. March 30th, 2009.

Q. Prior to joining Highland, were you employed at any other firm?

A. Yeah. I was employed at Deloitte.

Q. And how long were you at Deloitte?

A. I was at Deloitte from 2005 to 2009.

Q. And what position did you hold or what work did you do at Deloitte?

A. I was an auditor in the audit and assurance division.

Q. Okay. Do you have any licenses or certificates?
A. I'm a CPA in Texas.
Q. Did you go to college?
A. I did.
Q. Where did you go to college? When did you graduate? And what degree did you obtain?
A. I did undergraduate at Boston College. I graduated in 2004. My degrees were in accounting and finance. I did a masters of science in accounting at SMU. In 2005 is when I got that degree. And I got my MBA from SMU, I think at the end of 2009. It might have been 2010.
Q. Okay. So you graduated from college. You went to Deloitte for four years to serve as an auditor. And you've been at Highland since 2009; does that summarize it?
MR. RAYSHELL: Your Honor, I'm going to object. He's not been disclosed as an expert witness here. He's offering lay testimony under Rule 701. It feels like we're trying to establish his qualifications here.
THE COURT: Mr. Morris, response?
MR. MORRIS: I'm not offering any expert testimony whatsoever. I'm giving the Court the man's background so the Court can understand and appreciate why his experience leads him to do arithmetic.
THE COURT: Okay. The objection's overruled.
Q. Can you describe your employment history at

Highland beginning from the time you joined until the present?

A. Sure. So I joined March 30th, 2009. I was hired as a valuation analyst in the valuation department. After that time I had several, multiple, multiple, multiple job roles and responsibilities that have shifted over time. But some of those titles were senior financial analyst manager, senior manager, assistant controller, controller, chief accounting officer, and then in 2021 I became the CFO and COO.

Q. And in your capacity -- and in those capacities, did you have an opportunity, or did you participate in the preparation of any corporate tax returns?

A. Yes. I would have to bifurcate that. Significant involvement since 2021 with the role that I have now. Prior to that point more of a supporting role. There was an in-house tax department at Highland. So they would come to the accountants from time to time with questions and we'd certainly help out wherever we could. But no direct preparation of returns, but assistance as needed.

Q. And how did that change when you became the CFO in 2021?

A. Well, so one of the changes when I became CFO is we reduced head count and so we moved to an outsourced tax department. There were no tax people. So as CFO our outside

tax providers effectively reported to me and then I reviewed their work and have conversations with them and either sign tax returns or authorize them to sign returns that they prepare.

Q. Do you have any experience with IRS audits?

A. Yes, a little.

Q. Can you just describe your experience with IRS audits to the Court?

A. Yeah. So again to bifurcate, pretty minimal prior to the CFO role. Again, more something that I would hear about or maybe assist on the very edges with our old CFO. And then post-2021, you know, we've had an audit that I've led with our service provider.

Q. Let's just switch -- let's just get to the chase here. Are you aware that Highland is asking the Court to estimate Mr. Daugherty's reserved claim?

A. Yes. If the claim isn't disallowed.

Q. I appreciate the clarification. Let me restate the question.

If the Court allows Mr. Daugherty's reserved claim, are you aware that Highland is asking the Court to then estimate that claim?

A. Yes.

Q. Do you have an understanding of what that reserve claim is?

A. A general understanding.
Q. What is your general understanding of what the reserve claim is?
A. Effectively that the claim arises from the 2009 comp statement that he received. And that choose your word indemnify, backstop, make whole, he's -- he believes that he's entitled to a make whole depending on what results from the IRS audit. That's my basic understanding.
Q. Have you done any work to try to estimate the value of Mr. Daugherty's reserve claim in the event the Court allows it?
A. Yes.
Q. Can you turn to Exhibit 65 in your binder, please?
MR. MORRIS: Do you have that, Your Honor?
THE COURT: Yeah. I believe I'm pulling it up right now.
MR. MORRIS: Let me know when everybody's ready.
THE COURT: You said Exhibit --
MR. MORRIS: 65.
THE COURT: -- 65?
MR. MORRIS: Yes.
THE COURT: Okay. It will just be a moment.
MR. MORRIS: Uh-huh.
A. I'm there.

MR. MORRIS: If you'd like a hard copy, Your Honor, we do have an extra.

THE COURT: Yeah. If you have a hard copy, that will probably make it a little bit easier.

MR. MORRIS: Sure.

THE COURT: Thank you.

MR. MORRIS: May I approach, Your Honor?

THE COURT: You may.

MR. MORRIS: May I proceed?

THE COURT: You may.

Q. Mr. Klos, can you just describe for the Court what this document is?

A. This is a demonstrative that is describing various possible outcomes based on information that we've been able to determine either in our own records or through discovery with Hunton.

Q. And who prepared it?

A. I did.

Q. When did you prepare it?

A. Within the last month or so. I guess two months, judge a hedge.

Q. Okay. Can you -- let me see if I can just ask some simple questions.

You were here for my opening?

A. Yes, I was.

Q. And does this demonstrative reflect five different scenarios under which the reserve claim has been estimated?

A. Yes.

Q. Okay. I want to deal with the column on the left first.

IRS income adjustment to HCMLP. What does that column represent?

A. So that would be one of the inputs to the ultimate output of what the claim is. And if I could just step back a second. What you're seeing on the left side is those various inputs and the -- the arithmetic that I'm doing to get to the end answer of what should the claim be allowed at, if it is allowed.

Q. Okay. So let's go to the one below that, Daugherty's percentage of partnership. Am I reading that correctly that for every scenario it's 0.7403 percent?

A. You are. And that's straight off the K-1 and also in the IRS' 886Z form.

Q. And that's what referred to in footnote 1, Exhibit 17.886Z?

A. Yes, exactly. And I should point out that the end notes are important. So it's a good reminder.

Q. What are the end notes? Can you just describe generally what the end notes are?

A. Oh, just describing some of these numbers and where

they're derived from.

Q. Okay. Did you have -- did you bring any subjectivity to the determination of Daugherty's percentage of partnership interest?

A. No. And, again, that's right off the K-1 and right off the IRS form.

Q. Okay. And is the next -- I always forget, is it row or column going across?

A. What?

Q. Is it a row or a column, which goes up?

A. Oh, no, row.

Q. Row. Okay. So let's call it row.

Looking at the next row, you've got Daugherty's share of IRS income adjustment. Is that just mathematics, A times B?

A. Exactly. That's -- that's just -- that's math. That's not an input. It's just the product of A and B.

Q. Okay. And then the next one is 2000 applicable tax rate, 35 percent. That's the same for all scenarios; is that fair?

A. That's correct.

Q. Okay. How did you come up with that number?

A. So 35 percent was the highest individual tax rate in 2008. And so there -- I suppose there is a degree of subjectivity and that we defaulted to the most conservative

tax rate for that year.

Q. Okay. And --

A. Conservative meaning highest.

Q. Okay. And so then you've applied that tax rate to the -- to Mr. Daugherty's share of the income adjustment; is that right?

A. Correct. So just kind of following the flow. Income gets adjusted at Highland pursuant to however the dispute is fully and finally resolved. That is applied to Mr. Daugherty's percentage. That results in the amount of adjustment to his personal return. And then you tax effect that at 35 percent to come up with his potential under paying amount to the IRS.

Q. Okay. So the tax underpayment, the number in that row is the product of the ultimate adjustment times Mr. Daugherty's percentage interest times his tax rate?

A. That's right.

Q. Okay. And what -- what are you doing underneath that? What is statutory penalty?

A. Yes. So there is certainly possibility that penalties and interest will be applied to -- to Mr. Daugherty. Our position is that from a claim estimation standpoint, Highland shouldn't be responsible for those. But we -- we did go ahead and do the work on what those amounts would be if they were applied. And so statutory penalty is

the potential penalty amount that could be applied, depending on where the resolution falls out.

Q. And did you apply the maximum amount based on each of the scenarios?

A. Yes. And we -- we've applied based on -- in the case of -- I should make clear which cases we're talking about. In case five, one of the IRS adjustments was that they would apply statutory penalties so that the 20 percent number that you see out to the far right is the applicable penalty. And that's just straight off the -- the Code section.

Q. Uh-huh.

A. In the other scenarios you see different percentages. In case one the whole thing's reversed so everything is a zero. In cases two and four, based on the settlement offers that have been made thus far, in both cases either party agreed that there would be no penalties. So those cases reflect that assumption.

Q. So would it be fair to say that with respect to statutory penalties you either applied the law or you applied what the parties presented, as the case may be?

A. Correct.

MR. RAYSHELL: Your Honor --

A. With a small caveat that --

MR. RAYSHELL: -- I'm going to object again.

THE COURT: Hold on one second.

MR. RAYSHELL: I'm going to object again. We're asking him to apply the law. He hasn't been designated as an expert. We're combining facts and law here and offering expert testimony.

THE COURT: Any response, Mr. Morris?

MR. MORRIS: Sure. If you look at footnote 2, he points to the law.

Q. Mr. Klos, you can read; is that fair?

A. Yes.

Q. And --

THE COURT: Go ahead if you're going to rephrase or --

MR. MORRIS: Yeah.

A. Sorry, if you could just repeat.

Q. You can read, right?

A. Oh, yes, I can read. Sorry, I thought I answered you.

Q. And you're citing to the very specific -- it's Exhibit 30 to the backup?

A. Yes. I'm citing to the backup. It's the -- it's the Code section.

Q. Is it your opinion that these statutory penalties would be applied in each of these scenarios?

MR. RAYSHELL: Objection, Your Honor. That's

the basis of my objection.

THE COURT: You're basis -- I'm sorry, state the basis of your objection.

MR. RAYSHELL: So he's being offered as a fact witness under 701. But under 701(c) he's offering testimony, opinion testimony off his experience, experience at this point when he's applying the IRS Revenue Code -- or the Revenue Code, I'm sorry, to the analysis in this chart.

THE COURT: I'm going to overrule the objection.

Q. Mr. Klos, are you familiar with Mr. Daugherty's expert report?

A. Yes. Yes, I am.

Q. Does he -- does he rely on the same statutes that you do?

A. He cites to the same Code sections.

Q. Okay. Thank you.

Then you deal with potential interests; is that right?

A. Yes. And I need to clean up one point, because he said it's either based on the Code or the offers. Our case three, we just took the midpoint. So that is a little bit different. So we took 10 percent. That's a 50 percent haircut.

Q. I appreciate your candor.

The next one is applicable statutory blended rate.

Where did that come from?

A. Very similar answer. The applicable Code sections, IRS Code sections. And so those are straight off the Code sections. They're promulgated by the IRS regularly. You can look those up. And the Code sections describe how you're supposed to apply the interest. A, what interest rate should apply and then how to calculate it. And so we just followed that.

Q. And time outstanding, what is that referring to?

A. So that's -- that's a non-dollar number that's years. So 10.51 years. And that's the time from April 15th, 2009, which was the tax due date for individuals for their 2008 tax year, that's the beginning date. And then the end date is the petition date for Highland, that's October 16th, 2019. It's about 10 1/2 years.

Q. Why did you use the petition date?

A. Because that's the date when any possible unsecured pre-petition interest would stop accruing.

Q. Then did you calculate the interest accrued?

A. Yes.

Q. And how did you do that?

A. So that is just the -- the underpayment amount times the applicable rate times the number of years. And that gets you to interest accrued.

Q. And then what's the maximum theoretical amount?

What is that line intended to represent?

A. That's just an addition. So what that is is it's the sum of the row that says tax underpayment Daugherty, statutory penalty and interest accrued. So it's the sum of those three numbers.

Q. Okay. So up to this point it's any subjectivity at all, other than the use of the midpoint on the penalty as you pointed out?

A. Yeah. No, no subjectivity. Like I said on the tax rate we used the most conservative rate. So I suppose that could be construed as subjective, but we defaulted to the conservative.

Q. Okay. And then what's the last line, the income on previous refund?

A. So, again, we don't think that there should be liability related to penalties and interest. But even if there was, Mr. Daugherty's had the use of $1.3 million since 2009. And so we looked at what kind of a return that would have resulted in based on very conservative investing. We determined that if he could have just earned a 4 percent return for those same 10 1/2 years, that would have generated about $600,000 of income. We're not trying to be aggressive with any of the assumptions that we took. And so we basically just backed out the penalties and interest. So you don't -- you see numbers on this row that don't come close to

600,000, meaning it's an implied return of significantly less than 4 percent, you know, in some cases it's down less than a half a percent.

Q. Okay. So let's go -- let's finish up right now. Let's go back to the top. Let's look at the five cases that you have. Moving from left to right, how did you determine each of the five cases?

A. Sure. So from left to right, case one is the easiest to wrap your head around. That's the case going to its conclusion, wherever that goes, tax court and Dondero/Strand winning and reversing all of the adjustments that the IRS had given Highland. And so in that event, there's nothing due. There's no tax owed. There's no adjustment. So you see a lot of zeros on that column.

Case two -- I'm actually going to take these out of order. I'll go to case four. So in May of 2024, or thereabouts, April, May, 2024, the IRS offered a settlement offer to the tax matters partner. And we see that in both an email as well as a formal letter from tax matters partner's counsel to the IRS that describes that offer. And so column four is basically plugging in that IRS offer as the income adjustment. And then everything flows from there.

If I could bounce back to case two. Case two is the counter offer to that IRS settlement offer. And Strand, Mr. Dondero, I'm -- I'm not certain if it's Strand or

Mr. Dondero, but I think of them as the same. They offered to just kind of skip the whole adjustment and application of percentage interest and just resolve the whole thing for $8 million, just a single payment. So case two is just $8 million times Mr. Daugherty's percentage.

I'm going to skip over midpoint. And I apologize for bouncing around. But -- but case five is the results of the audit. So the audit concluded in late 2017, early 2018, I believe is when the closing conference occurred and the IRS proposed three adjustments. There was one that was approximately $73 million related to a hedging transaction. There was a second adjustment for about $93 million that was -- it's described as a change of accounting method, but it relates to the same hedging series of transactions. That's about 93 million. And the third adjustment that they proposed was the application of statutory penalties. So there's no a discrete number to number three, other than just look at the statute for the penalties because we intend to apply those. The sum of adjustment one and adjustment two is the number that you see on this demonstrative, the 166 million of global adjustment to income.

Q. Okay. So based on the work that you did, is it your conclusion that Mr. Daugherty's reserved claim is worth somewhere between zero and $430,976 with the only subjective -- with the only variable being the -- the

ultimate adjustment?

A. That's right. The other variable, I suppose that's out there is the open question of whether penalties and interest should apply.

Q. Uh-huh.

A. And obviously we believe that it shouldn't. But if it does, we've done the work.

Q. Okay.

MR. MORRIS: Your Honor, before I cede the podium, do you have any questions for Mr. Klos?

THE COURT: I'll let -- is it -- sorry, I'm not familiar with which one of the two he announced you as.

MR. RAYSHELL: Drake Rayshell.

THE COURT: I'll let Mr. Rayshell first before I have any questions.

MR. MORRIS: Okay.

I have nothing further then.

THE COURT: Okay.

MR. RAYSHELL: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. RAYSHELL:

Q. It's Klos, right?

A. It's Klos, like Santa --

Q. Okay. I've seen it in a transcript and it looked like Claus like Santa Claus, so I wanted to confirm that.

As a starting point, you don't know what Daugherty's solvency was from 2012 to today, do you?

A. I -- no, I don't.

Q. Okay. And you don't know if he's been able or has been investing in anything, do you?

A. That's correct.

Q. Okay. And, Mr. Klos, the -- the audit that we're discussing, it's still ongoing; is that correct?

A. No, that's not right.

Q. The IRS tax audit is not ongoing?

A. If I could clarify. The audit is concluded. There is a dispute resolution process that is certainly ongoing and is not fully and finally resolved. Understood. So it's on appeal and the IRS has yet to come to a final determination; is that fair?

A. I don't think that's fair.

Q. Okay.

A. I don't think that's fair.

Q. But the IRS is still analyzing the tax returns from 2008; is that correct?

A. I don't believe it is.

Q. Okay. But it's being appealed; is that fair?

A. Their audit conclusions are under appeal.

Q. Okay. Thank you, sir.

Mr. Klos, we've already established this, but you've

not been designated as an expert witness in this case; is that correct?

A. That's right.

Q. And you've not been qualified as an expert in the Internal Revenue Code in this proceeding either, correct, Mr. Klos?

A. I don't know, but I assume not.

Q. Okay. And you're not holding yourself out today as an expert in interpreting the Internal Revenue Code for the purpose of this hearing, are you, Mr. Klos?

A. I don't know if I can answer that because I don't know how expert is defined. But I'm not here as an expert. But I -- I am --

Q. So, sorry --

MR. MORRIS: Let him --

Q. -- a simple yes or no. So you are not here testifying as an expert today, correct?

A. Yes.

Q. Okay. And on top of that, because you're not here as an expert, you're not representing yourself as an expert in the IRS tax audit or appeals process; is that correct?

A. That's correct.

Q. And you're here just as a fact witness; is that fair?

A. I'm not sure. That's a legal concept. I don't

know what --

Q. You're here to do arithmetic; is that correct?

A. I think that's oversimplifying. But basically, yes.

Q. Okay. Well, I believe Highland's counsel stated that you were here to do simple arithmetic for the judge; is that fair?

A. I don't disagree with that.

Q. Based on those things, you'd agree with me that you're not sitting here in a position to offer an opinion on the meaning, interpretation, or application of any provision of the Internal Revenue Code; is that fair?

A. I don't know how to answer that.

Q. Okay. Are you applying an interpretation of the Internal Revenue Code to your analysis today?

A. I'm reading the Internal Revenue Code and -- and I'm reading and interpreting the Code.

Q. Okay. So you are, then, even though you're not here as an expert, correct?

A. I don't know how to answer that question.

Q. I believe you stated a moment ago that in the -- in handling Highland's affairs when you've dealt with tax disputes that you have a service provider that you're actually handing out tax returns and analysis to; is that correct?

A. I wouldn't characterize it that way. We utilize a service provider.

Q. Okay. So you utilize a service provider for tax reasons, we'll say; is that fair?

A. Yes.

Q. And that service provider is Skyview?

A. No.

Q. It's not?

A. It used to be, but it's not at this time.

Q. It's not currently Skyview, okay.

A. Correct.

Q. And is Frank Waterhouse involved with Highland's tax analysis and returns?

A. Not --

MR. MORRIS: Objection to the form of the question.

THE COURT: What's the objection?

MR. MORRIS: Just a moment in time. Are you asking about today?

Q. Is Frank Waterhouse involved in Highland's tax analysis for any purpose today?

A. No.

Q. Mr. Klos, if you would, do you still have Exhibit 65, the demonstrative in front of you?

A. I do.

Q. Okay. Would you look down to row H where it says, time outstanding (years); do you see that?
A. I see that.
Q. Okay. And it says 10.51 years, correct?
A. It does.
Q. And according to note four we were just walking through, that's calculated from April 15th, 2009 to October 16th, 2019; is that right?
A. Yes.
Q. And as you stated a moment ago, tax returns for the fiscal year 2008 were due on or around April 15th, 2009, correct?
A. For our purposes here, yes, you could have extended the tax payment, which they'll be due on the same date. So for our purposes today, yes.
Q. Okay. And Highland filed its bankruptcy petition on October 16th, 2019, correct?
A. Yes.
Q. And as you discussed with Mr. Morris, that's why you selected October 16th, 2019 as the end date of your calculation, right?
A. That's correct.
Q. And you selected that date because Highland's bankruptcy filing affected the accrual of interest on Highland's IRS debts; is that correct?

A. Can you ask the question again?
Q. Sure. You selected October 16th, 2019 as the end date for your calculation because Highland's bankruptcy petition affected the accrual of interest on Highland's IRS debts, correct?
A. I wouldn't characterize it that way. We selected that date because that is the petition date.
Q. Okay. But I believe you testified a moment ago that as of that date interest stopped accruing, correct?
A. That's my basic understanding under bankruptcy is unsecured pre-petition claims don't accrue interest beyond the petition date.
Q. Okay. But Highland's bankruptcy filing and the accrual of interest didn't affect Mr. Daugherty's personal accrual of interest on October 19th -- October 16th, 2019, did it?
A. If I could ask for a clarification. Are you asking could Mr. Daugherty have interest accruing beyond that date that he's responsible for?
Q. That's exactly what I'm asking.
A. Then, yes.
Q. Okay. So easy math then. April 15th, 2009, today, April 17th, 2026, that's 17 years; is that correct, Mr. Klos?
A. Yeah. Thereabouts.
Q. So by your calculation, looking again at the time

outstanding and your testimony now that his interest has not stopped accruing, it's possible that your calculation's wrong, it could require a 17-year basis; is that fair?

A. No, that's not fair.

Q. Okay. So Mr. Daugherty's personal debts that he owes the IRS --

A. That's a different question.

Q. If -- well, that's the question I'm asking.

A. You're asking two different questions.

Q. Okay. Let me be clear then.

We've established that on October 16th, 2019 Highland's interest stopped accruing because of the bankruptcy petition, correct?

A. Interest on Mr. Daugherty's claim stopped accruing.

Q. Okay. But for Mr. Daugherty, if he owes the IRS money on an ongoing basis because he underpaid or overpaid, the interest accruing on that amount did not stop as of October 16th, 2019, did it?

A. The interest to him did not stop, but we're here to estimate Highland's potential liability under a claim. And that interest stops on the petition date.

Q. Okay. So Mr. Daugherty's interest could exceed 10.5 years. Your claim is just that Highland wouldn't be responsible for it?

A. That's right.

Q. Okay. And we disagree on that. But you made an assumption here that 10.5 years was the appropriate calculation for Mr. Daugherty's exposure, correct?

A. No. We -- that's part of the -- that's part of the calculation to get to the estimation amount.

Q. Understood. And the estimation amount is an estimate of what Mr. Daugherty's potential exposure, or his claim against Highland is, correct?

A. No. The estimation amount is Highland's potential liability. It's Highland's potential obligation under the claim.

Q. To Mr. Daugherty?

A. To Mr. Daugherty. He filed the claim.

Q. Okay. I think we were saying the same thing there with two sides of the same coin.

A. I don't think we were, but that's okay.

Q. Okay. And I heard you testify at the end of your direct that you had multiple assumptions you were basing these calculations on; is that correct?

MR. MORRIS: Objection to the form of the question.

A. I wouldn't describe --

THE COURT: Hold one second.

Mr. Morris, I apologize. You keep objecting based on form. I mean, what is the issue?

MR. MORRIS: Because I didn't -- because that mischaracterizes both what I said and what the testimony is. He could just ask the question.

THE COURT: All right. Mr. -- sorry --

MR. RAYSHELL: Rayshell.

THE COURT: -- Rayshell, do you have a response, or are you just going to --

MR. RAYSHELL: I'll restate the question, Your Honor.

THE COURT: Okay.

Q. Your calculations are based on a series of assumptions, correct?

A. They're based on a series of inputs. I don't know if I would go so far as to say assumptions. They're based on objective data points that we're able to use.

Q. Okay. Objective data points that include applying the Internal Revenue Code; is that fair?

A. Objective data points like applying the 20 percent one-time statutory penalty that's contained in the IRS Code section, yes.

Q. Okay. So under your five scenarios you have here, there are at points an assumption made to get to your final calculation; is that fair?

A. I don't think that's fair. I -- I don't think that's -- I don't think that's the way I would characterize

it.

Q. Okay. We'll move on then.

Mr. Klos, you're familiar with the settlement agreement between Highland and Mr. Daugherty that is the subject of today's trial, correct?

A. Generally, yeah.

Q. Okay. And do you have -- is that Highland's exhibits in front of you?

A. It is.

Q. Okay. Would you mind turning to Highland Exhibit 5, please, on page 12?

A. I'm sorry, did you say page 12?

Q. Page 12 within Highland 5 there.

A. Thank you.

I'm there.

Q. Okay. And if you'd go with me to Section 10.

A. I'm there.

Q. Okay. The first sentence reads, the HCMLP parties set forth on Appendix A hereto are currently employed by the debtor or HCMLP released parties. Do you see that?

A. I see that.

Q. And HCMLP, for the purposes of today's hearing refers to Highland; is that correct?

A. I don't know. I assume so. However it's defined. But I would assume that it relates to Highland Capital

Management, L.P.

Q. Okay. Now if you would, please turn with me to Appendix A, which is going to be the last page of Highland 5.

A. Okay. I'm there.

Q. Okay. And if you go down that list to number 10, that's you listed there, correct?

A. That's me.

Q. Okay. So you received an express release from Mr. Daugherty under the settlement agreement; is that correct?

A. That's my general understanding. I don't know exactly. I probably need a lawyer to interpret that. But that's my general understanding.

Q. Okay. But you would agree with me that the language that we read from Section 10 says those listed in Appendix A are a part of the HCMLP released parties, correct?

A. Yes. They are part of that group, yeah.

MR. MORRIS: Your Honor, if I may. If Mr. Daugherty is really contending that by testifying today Mr. Klos is using the benefit of his release, he should say that explicitly and we should deal with that right now. This is outrageous.

MR. RAYSHELL: That's not the basis of this line of questioning, Your Honor.

THE COURT: I'm going to let the witness be

questioned along these lines. I'll overrule the -- yeah, I'll overrule the objection.

Q. Mr. Klos with that, you're aware that Mr. Daugherty sued Highland and others in the Delaware Chancery Court, right?

A. Generally. I don't know the specific parties he sued. I believe Highland was one. I'm not sure who else.

Q. Okay. You're aware of the litigation though, correct?

MR. MORRIS: Objection to the form of the question. There is so much litigation in Delaware. I would really appreciate specificity.

MR. RAYSHELL: That's fair.

Q. In October 2019 you took the stand on behalf of Highland in litigation against Daugherty; is that correct?

A. I took the stand. I don't recall who the parties were. I was in Delaware. I testified in October of 2019, yes.

Q. Okay. And you testified at that trial that a significant portion of Highland's legal spend defending against Daugherty's claims was allocated to HERA, correct?

A. I don't recall my testimony specifically.

Q. Would it help you if I refreshed your recollection?

A. Sure.

Q. Okay.

MR. RAYSHELL: Your Honor, if I may approach.
THE COURT: You may.
MR. RAYSHELL: Your Honor, what we're looking at here is -- I will concede a condensed copy of the filing at Docket 1280 regarding Mr. Daugherty's proof of claim. It's condensed to include the lead page, his proof of claim, and then a copy of the transcript from proceedings occurring in the Delaware Chancery Court on October 15th, 2019.

Q. Mr. Klos, for your benefit, would you please turn to what at the top what we listed as page 398 out of 1207?

A. I'm there.

Q. And starting at line 15, which briefly I'll represent to you that if you look at the top of this page it says D. Klos direct. This is a portion of your direct that was offered to the Delaware Chancery Court in October of 2019.

If you would, please, just read to yourself starting at line 15 through line 10 on page 464.

A. Okay. Just give me a moment.

Okay.

Q. Does that reflect -- refresh your recollection regarding your testimony in October of 2019?

A. Not really, but I can read it.

Q. And according to this transcript, you testified that a significant portion of Highland's legal spend

defending against Daugherty's claims was allocated to HERA, correct?

A. I think I testified that the legal spend was split between the two entities and Highland funded it. And the words speak for themselves.

Q. Okay. And the words there, you testified that 93 percent of Highland's legal spend was allocated to HERA when it was invoiced, correct?

A. 93 percent of the invoices were allocated to HERA.

Q. Okay.

A. 100 percent of the invoices were paid by Highland.

Q. Okay.

A. And there was a receivable. And I'm not going to just repeat this, but the testimony is, it says what it says.

Q. Okay. But it's your recollection that 93 percent were allocated to HERA, correct? Just simply put.

A. 93 percent was allocated to HERA, that's right.

Q. Okay.

A. It's approximate. It's not to the --

Q. Fair. That's fair. Your approximation is similar to mine saying a significant portion, 93 out of 100 percent. I'll agree with you on the approximate.

Now, Mr. Klos, you're aware that Mr. Daugherty alleges that that allocation from Highland to HERA was fraudulent, correct?

A. I'm not sure what he alleges.

Q. Okay. Well, you're aware that Mr. Daugherty alleges that certain of Highland's former principals committed fraud against HERA through those allegations, correct?

A. Can you define principals for me, please?

Q. Sure. Old Highland. I'll keep it simple. But listing the names of the unreleased parties under the settlement agreement, he's alleging that former principals, such as Mr. Dondero, Mr. Ellington, and others were fraudulently allocating funds from Highland -- I'm sorry, invoices, legal fees to be specific, from Highland to HERA's books?

A. I don't know the specifics of the allegation. But I know he has alleged bad acts by those actors.

Q. Okay. So you're aware he's bringing claims against them on behalf of HERA, correct?

A. Yeah. Those individuals among others.

Q. Okay. Now if you would, please -- sorry, we've got this stack of paper in front of you. But if you'd go back to Highland 5, the settlement agreement in the binder.

A. Oh, sure.

Okay. I'm there.

Q. And if you'll turn to page 10, Section 8 with me.

A. I'm there.

Q. Okay. Looking at Section 8, if you'll just read along with me. The first sentence states, The parties acknowledge and agree that as of the date hereof, HERA and ERA have no material assets other than potential claims, correct?

A. That's what it says.

Q. Okay. And then the next sentence provides that to facilitate recovery of such potential claims, HCMLP will transfer its interest in HERA and ERA to Daugherty, correct?

A. I don't think you read that fully, unless I missed it. And if so, I apologize.

Q. Sure. I was advancing from the first sentence to the second sentence.

A. Are you starting with, to facilitate?

Q. Correct.

A. Okay.

Q. And you'd agree with me that it states, to facilitate recovery of such potential claims, HCMLP will transfer its interest in HERA and ERA to Daugherty? And I'll concede, there's an exception or carveout in there between parens that's irrelevant to our discussion here that lands between those two.

A. Okay. Yeah, you excluded the middle part. Can I just read it? I mean, this document says what it says. It says, To facilitate recovery of such potential claims which

expressly excludes any and all claims by or in the name of HERA and ERA against any of the HCMLP release parties, HCMLP will transfer its interest to HERA -- in HERA and ERA to Daugherty. That's what it says.

Q. Okay. So since you've read the whole sentence for the Court's benefit it says, To facilitate recovery of such potential claims. And then we'll take the paren that you added. It's an exception which states, Which expressly excluded any and all claims by or in the name of HERA and ERA against any HCMLP release parties, correct?

A. That's what it says.

Q. Okay. And earlier we established that HCMLP released parties includes you, that's that Appendix A, correct?

A. I'm one of the HCMLP released parties.

Q. Okay. So would it be fair to say that facilitating recovery of potential claims doesn't include claims against the HCMLP released parties?

A. I'm not going to speculate that. This is a legal document. I didn't look at it. I haven't -- I didn't review it. The document stands for itself.

Q. Okay. And that's fair. Because as I said, the exception here is not relevant to our discussion. But since we've acknowledged the exception the sentence begins, To facilitate recovery of such potential claims, going past the

exception, HCMLP will transfer its interest in HERA and ERA to Daugherty, correct?

A. Yes. The document says what it says.

Q. Okay. And the next sentence says, Such transfer will include the HERA and ERA books and records spreadsheet maintained on HCMLP's system. Did I read that correctly, Mr. Klos?

A. I believe you did.

Q. Okay. So the settlement agreement then provides that Highland will transfer its interest in HERA and ERA to Daugherty to facilitate the recover of potential -- recovery of potential claims, correct?

MR. MORRIS: Your Honor, objection. I've listened to this for 5 minutes. He said what he said about his knowledge about the document. The document says what it says. He -- I don't know why we're having a debate with this witness.

THE COURT: Yeah. I'm not quite sure where this is going either.

MR. RAYSHELL: The -- I think we're quickly going to turn there. And to his point, the document does say what it says. It's just been getting tripped up on an exception I was hoping to expedite for the purpose of today's trial.

THE COURT: Okay. Well, I mean, and he's

answered the document says what it says and the document's in evidence so --

MR. RAYSHELL: Okay.

THE COURT: So the objection's sustained.

MR. RAYSHELL: Understood. Thank you, Your Honor.

Q. Mr. Klos, that transfer included the books and records according to the language of the document, correct?

MR. MORRIS: Objection to the form of the question.

A. The document speaks for itself. The document says what is going to be transferred.

Q. Okay. And as part of transferring books and records, you helped collect information to forward to Mr. Daugherty; is that correct?

A. Yes, I did.

Q. Okay. Which included some accounting information; is that right?

A. Yes. With help. I don't know that I collected it directly. But I would have asked somebody to -- to provide it.

Q. Okay. And it also included some of the governing documents of HERA and ERA; is that correct?

A. The -- what was transferred over did. I don't think I was involved in those -- that collection.

Q. Okay. And that collection, however, did not include all of Highland's emails regarding HERA and ERA; is that correct?

A. It did not include all of Highland's emails regarding HERA and ERA.

Q. Or the attachments to those emails presumably; is that fair?

A. Correct. I mean, I suppose it's possible that there might be some population of emails that have attachments that we did provide, but I don't know.

Q. Okay. And in collecting those, you also didn't collect all of the invoices that Highland -- in Highland's possession regarding legal fees allocated to HERA; is that correct?

A. You need to be clear on when.

Q. For the time period 2019 -- prior to 2019 the invoices that were being allocated, the 93 percent, those have not been produced as a part of the production of the books and records?

A. No, they have. They have. We produced over 300 invoices.

Q. Okay. So it's your testimony today then that all of those records have been produced prior to 2019?

A. Those invoices have been produced. There was over 300 of them.

Q. Okay. And those would be, to be clear, the invoices that were allocated from Highland to HERA?

A. They were the invoices -- I don't know with exact precision. But these were the invoices that ultimately were reflected on HERA's records as expenses.

Q. So it's fair to say then that we got some, but not every invoice that Highland allocated to HERA?

A. You got over 90 percent. That was as much as we could find. I'm sure if we, you know, reached to the ends of the earth we could find the other 30 or so that we couldn't find. But we did provide over 300.

Q. Okay. And, again, it was your testimony that we didn't produce all of the emails, though, to HERA, correct?

A. Correct. Not emails, that's right.

Q. And those emails between Highland personnel discussing legal fees allocated to HERA would be relevant to understanding HERA's potential claims, though, wouldn't they?

A. That's not a question for me. I don't know what would be relevant. I don't know the nature of the claims in detail, so I'm not prepared to answer that.

Q. But additional documents or available information would help facilitate the recovery of HERA's potential claims; is that fair?

A. I have no idea.

MR. RAYSHELL: Pass the witness, Your Honor.

THE COURT: All right. Let me just ask a couple of questions that I have.

Mr. Klos, if you'll go back to Exhibit 65.

THE WITNESS: Okay. I'm there. I'm there. Thank you. Sorry.

THE COURT: I just want to make sure I'm understanding this correctly. At the -- at line K, that's a calculation that you did based on what you all believe he, he being Mr. Daugherty, should have or could have earned based on investing the refund that he received in 2009, I believe it was, in 2009; is that correct?

THE WITNESS: That's correct.

THE COURT: So help me understand why does that number fluctuate based on the amount of the line A?

THE WITNESS: It's really -- it's all those numbers are, the reason that they fluctuate is that in cases three, four, and five, those numbers are exactly equal to the total of penalties and interest. So what we did is we basically said, you should have earned income up to the penalties and interest that we calculated in those cases.

THE COURT: Okay. And this is -- this is an assumption, you have no idea -- I believe you testified you have no idea whether he invested that money or what his investments have or haven't done?

THE WITNESS: Correct.

THE COURT: Okay. And I believe you also testified that since 2012, which is when I presume Mr. Daugherty was no longer with Highland, Highland would have no idea what his tax attributes are, whether he has losses or gains or income or --

THE WITNESS: Certainly beyond 2012 I think we received returns up to tax year 2008 and didn't receive returns thereafter. So -- so, yes, I don't have knowledge of those periods.

THE COURT: Okay. But is it fair for me to say then that essentially you all have -- if I look at this demonstrative and basically take everything under -- I think I just answered my own question, but I'll go ahead and continue to ask it. If I take everything under line E, I get the same amount, the income reduction doesn't matter, if I take away everything after line E?

THE WITNESS: That's -- that's right. There's a small caveat. It does matter in case two. But I think for your purposes, that's exactly right. You'll see line E matches estimation amount, except in case two.

THE COURT: Okay.

THE WITNESS: And the only reason for that is it's such a di minimus amount of money, you know, being able to earn $60,000 on 1.3 or whatever the number is over 10 plus years was --

THE COURT: Let me ask this.

THE WITNESS: Yeah.

THE COURT: Well, let me look at note 6 real quick.

Okay. So why in case two do we not have -- well, that see note 6 on both of those, are you taking 8 million in line A and multiplying that by line B and multiplying that by line D to get to line E?

THE WITNESS: No. And I'm sorry to cut you off. What we're really doing is we're putting 8 million in line A. We're leaving line B at .704 -- 7403. And there is nothing for applicable tax rate. Because that offer was just a simple, we're going to pay you to resolve everything and what we're going to pay you is $8 million. So Mr. Daugherty's percentage of $8 million would just be his share of the partnership. There's no additional application of a tax rate.

THE COURT: And that's the 59,000 --

THE WITNESS: That's the 59,000. Yeah, if you did the math it would be 8 million times .7430 percent equals 59,224.

THE COURT: All right. Thank you.

Mr. Morris, any redirect?

(no omission)

REDIRECT EXAMINATION

BY MR. MORRIS:

Q. Just one question, Mr. Klos.

If the Court decides not to reduce an estimated amount for the time value of money, would your analysis remain the exact same, except you would eliminate line K?

A. That's right.

MR. MORRIS: No further questions, Your Honor.

THE COURT: All right. Thank you.

All right. You may step down. Thank you.

THE WITNESS: Thank you.

MR. MORRIS: Your Honor, I'm next going to call Mr. Daugherty's expert, Mr. Liles-Tims.

THE COURT: Okay.

MR. MORRIS: Just so we can get this piece of the case out of the way and I can get him out of the courtroom and get him on his way.

THE COURT: Okay. I was just about to ask, are we -- are you wanting to have Mr. Klos excused, or not yet because you're going to be --

MALE SPEAKER: I think he's going to hang around for a few minutes, but he can --

MR. MORRIS: You can leave. It's okay, Your Honor.

THE COURT: Okay. Well, let me -- let me just

make sure. Mr. York, are you all agreeable that Mr. Klos can be excused?

MR. YORK: It's fine with us.

THE COURT: Okay. All right.

MR. YORK: And a housekeeping matter about the sealed exhibits earlier, Your Honor.

THE COURT: Yes.

MR. YORK: I checked, our sealed exhibits were filed at Docket Number 125.

THE COURT: Okay.

MR. YORK: So with the caveat that I stated earlier that we were withdrawing 58 to 77, to the extent that any of the sealed exhibits on Docket Number 125 are within that range, we are moving to admit all of the sealed exhibits at Docket Number 125.

THE COURT: Okay. Any objections, Mr. Morris?

MR. MORRIS: No, Your Honor, it's fine.

THE COURT: Okay.

MR. MORRIS: So, again, Highland calls T.J. Liles-Tims.

THE COURT: Sorry, one moment. I'm trying to figure out something real quick.

MR. LILES-TIMS: Your Honor, may I bring water up to the stand?

THE COURT: I believe there's water on the

stand.

MR. LILES-TIMS: Oh, there is, okay.

THE COURT: Yes. I don't believe that Mr. Klos took a sip of it. If that's your bottle, you're welcome to bring it. I won't make you share water.

Sorry, I've got a communication here about audio. Are we having any audio problems?

Okay. Sir, I'll have my law clerk swear you in first.

(The witness was sworn by the Court's law clerk.)

THE COURT: You may proceed, Mr. Morris.

MR. MORRIS: Thank you very much.

T.J. LILES-TIMS

The witness, having been duly sworn to tell the truth, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q. Good morning, sir.

A. Good morning.

Q. Good to see you in person.

A. Good to see you.

Q. I just have hopefully not a very lengthy examination here.

You're a partner today at a firm called Weaver & Tidwell; do I have that right?

A. Yes, sir.

Q. And your expertise lies in business valuations, fraud examinations, and quantifying commercial damages, correct?
A. Yes, sir.
Q. You're not a CPA, correct?
A. I am not.
Q. You do not hold yourself out as an expert in IRS audits, correct?
A. I do not agree with that.
Q. Okay. You haven't personally represented any clients in an IRS audit, correct?
A. In some manners, yes. In terms of in its totality, no.
Q. Okay. And what do you mean by, in its totality?
A. In terms of the audit itself as much as subject matters that are being audited.
Q. Okay. So you play a supporting role; is that fair?
A. That is correct.
Q. Okay. You've never testified in tax court, correct?
A. That is correct.
Q. Okay. And you don't hold yourself out as an expert in bankruptcy law, correct?
A. No, sir.
Q. You've prepared opinions in this case; is that

right?

A. Yes, sir.

Q. But none of those opinions take into account Section 502 of the Bankruptcy Code, correct?

A. They do not.

Q. You didn't even review that section, fair?

A. That is correct.

Q. You're not offering any opinion as to what the term, estimate, means for purposes of Section 502 of the Bankruptcy Code, correct?

A. I would have to read 502 to indicate that.

Q. And you haven't done that as of today, correct?

A. I have not.

Q. Okay. You're not offering any opinion as to whether Mr. Daugherty -- withdrawn.

You're not offering any opinion as to whether the failure to estimate Mr. Daugherty's claim will unduly delay the administration of the Highland bankruptcy, correct?

MR. BURLEY: Your Honor, I would just object on the basis of relevance. Mr. Morris can ask these questions if he would like to, but it's very clear from my direct of this expert, as well as his written report that he's not being designated nor has he been designated as someone who is going to opine on estimation or the Bankruptcy Code. He can ask these questions, but that's not at all what

we designated him for so there's really no relevance to these questions.

THE COURT: I'm going to overrule the objection. You may proceed.

Q. I apologize if I just asked you this question, but I got interrupted.

You're not offering any opinion as to whether Mr. Daugherty's failure to estimate -- withdrawn.

You're not offering any opinion as to whether the failure to estimate Mr. Daugherty's claim will unduly delay the administration of the Highland bankruptcy case, correct?

A. That is correct.

Q. You're not offering any opinion as to the estimated value of Mr. Daugherty's claim, correct?

A. I disagree.

Q. Isn't it your opinion that there's too much uncertainty and that estimating Mr. Daugherty's claim is impossible today?

A. I have indicated my opinion is is there are too many variables.

Q. So you're not offering an estimate of the value of Mr. Daugherty's claim today, correct?

A. Well, again, I -- I disagree. I have offered an opinion as to how to calculate it once the information has been provided.

Q. Okay.

A. But in terms of actually having that information, I do not have that.

Q. All right. So I appreciate the point. Is it fair to say that it's your opinion that you cannot quantify Mr. Daugherty's claim today for estimation purposes because there's too much uncertainty?

A. I would agree.

Q. Thank you very much.

In your opinion you would have to engage in too much speculation in order to estimate Mr. Daugherty's reserved claim today; is that fair?

A. I would agree.

Q. Okay. And the reason that you believe a reasonable estimate can't be made is because you don't know what the final deficiency will be after the dispute resolution process plays out with respect to Highland's 2008 income tax returns; is that fair?

A. Well, you utilized the term, deficiency. So I believe that I don't agree with the concept of deficiency as much as what may be owed.

Q. Okay. So the reason you believe a reasonable estimate can't be made today is because you don't know what ultimately may be owed with respect to Highland's 2008 income tax return?

A. Well, that is one of a multitude of different factors.

Q. Okay. And that number of what will be owed will only be known when either the tax matters partner settles the case on behalf of Highland, or there is a final judicial resolution from the Tax Court; is that right?

A. I would agree.

Q. Okay. But at that point there won't be anything to estimate; is that right, because you know exactly what is owed?

A. I disagree.

Q. Okay. So even then it's your expert opinion even then you won't be able to estimate the value of Mr. Daugherty's reserve claim?

A. I would agree.

Q. Okay. Do you have a binder in front of you there, sir?

A. Yes, sir, I do.

Q. If you could just open up to Exhibit 59.

A. Yes, sir, I'm there.

Q. Okay. This is your expert report; is that right? And, please, take your time.

A. Yes, sir.

Q. And you coauthored this report with Garry McIntosh; is that right?

A. That is correct.
Q. Okay. Mr. McIntosh is a CPA with tax and audit experience, correct?
A. That is correct.
Q. But he's not here to testify today, correct?
A. He is not.
Q. In preparing your report with Mr. McIntosh you made no effort to speak with the tax matters partner to learn about the history or status of the audit, correct?
A. Can you restate that for me, please?
Q. In preparing your report and doing your diligence, you didn't make any attempt to speak with the tax matters partner regarding the history and status of the audit; is that fair?
A. I did not.
Q. Okay. And you're aware that Hunton & Williams has been representing the tax matters partner in connection with the audit from the beginning?
A. That is my understanding, yes.
Q. And in connection with your preparation of this report, you made no effort to speak with anybody at Hunton & Williams concerning the history of the status of the audit, correct?
A. Outside of reviewing subpoenaed documents, no, sir.
Q. Okay. You didn't review all of the documents that

were produced by Hunton in response to the subpoena, correct?

A. I did not.

Q. Okay. You just read what Mr. Daugherty's lawyers chose to give you; is that fair?

A. I read what I requested specifically and was provided by Mr. Daugherty's attorneys.

Q. When did you learn that a subpoena was served on Hunton & Williams for documents related to the audit?

MR. BURLEY: Objection, Your Honor, relevance. It's no secret that in the case Hunton & Williams was subpoenaed for documents. This witness' knowledge of when, how that occurred, objections that were served, dispute resolution between the parties about that, that has no bearing on Mr. Liles-Tims' expert testimony in this case. He reviewed the documents that are relevant to his analysis. Those are part of his report. He cited them. Mr. Morris had the chance to depose him already. What he's asking right now is not relevant to this analysis.

THE COURT: Response, Mr. Morris?

MR. MORRIS: I sense a bit of defensiveness here, Your Honor, and I understand why. Highland served the subpoena on Hunton Williams. Mr. Liles-Tims is going to testify that he knows that thousands of documents were produced. And yet when we look at the list of documents that he reviewed, it's just a handful of documents for Hunton &

Williams. And so I think it goes to the credibility of his analysis, his credibility of the report that he was aware that there were thousands of documents related the audit and he found no interest, no intellectual curiosity in knowing what was happening as part of the audit.

I just -- I mean, it's kind of standard. What documents did you review? I can do it that way.

THE COURT: That's what I was going to say. Let's -- I don't know whether we need to get into the minutia of when was the subpoena served --

MR. MORRIS: It was just going to be a couple of questions.

THE COURT: -- and responses.

MR. MORRIS: But that's fine.

THE COURT: Let's get into what documents might have been produced and --

MR. MORRIS: Sure.

THE COURT: So I'm going to sustain the objection.

MR. BURLEY: Thank you, Judge.

Q. Can you go to the last page of the exhibit, sir?

A. Yes, sir, I'm there.

Q. This lists all of the documents that you reviewed; is that right?

A. These are -- this is a list of the documents

reviewed and relied upon, yes.

Q. Okay. And which of these documents did you specifically request?

A. I requested a multitude of documents. In terms of which specific ones, I -- I can't recall at this time.

Q. Okay. But you understood at the time you were doing your work that Hunton & Williams had produced thousands of pages of documents; is that fair?

A. Not until actually documents were produced did I learn that.

Q. Okay. And the only Hunton & Williams documents that you reviewed are these couple that are in this statement, correct?

A. I would disagree to your term, couple. Usually that means two. But there's four there.

Q. I apologize. I stand corrected.

You reviewed a total of four documents that were produced by Hunton; is that fair?

A. I would say that I reviewed four documents that are Bates labeled Hunton.

Q. Okay. And if there were any other documents that were Bates labeled Hunton that you reviewed, they would be on this list; is that right?

A. I don't know that that's true because there could have been documents within the subpoenaed documents that were

either produced by Highland or produced by Daugherty that were not Bates labeled Hunton. So they may have been produced by one of the parties in this matter.

Q. You haven't studied the facts concerning the underlying transactions that are the subject of the IRS audit, correct?

A. Outside of what was -- outside of the correspondence reviewed between the IRS and Hunton, I have not.

Q. Okay. You didn't attempt to understand the reasons for the IRS' adjustments, correct?

MR. BURLEY: Objection, Your Honor, relevance. Again, we are not here to dispute the mechanisms by which Highland tried to institute its 2008 refund scheme and the way the IRS treated that in terms of their analysis. We're here simply to look at the results that we've seen from the IRS. And this witness is going to testify about the vast amount of uncertainty that we still have. We are not here to re-litigate why or how Highland instituted a hedging scheme that did or didn't work out in its favor. That is so far out of bounds with this witness. It has no relevance here.

THE COURT: I don't know that that's what I understood from his question. But regardless, I'm going to overrule the objection and allow the question. We're getting into what did he review and what does he understand about the

underlying IRS issue. So --

Q. You didn't attempt to understand the reasons for the IRS' adjustments; is that fair?

A. Can you be a little more specific for me? Sorry.

Q. There's nothing in your report that describes the transactions that are the subject of the IRS audit; is that fair?

A. I was not engaged to opine as to the -- the audit itself. Rather, the outcome as it relates to Mr. Daugherty.

Q. Okay. And you weren't engaged and ordered to understand the reasons for the IRS' adjustments, correct?

A. That was not part of my engagement.

Q. Okay. You're aware that the audit at issue here concerns Highland Capital Management's 2008 federal income tax return, correct?

A. Yes, sir.

Q. Except as it may relate to Highland's tax returns for 2008, you have no reason to believe that Mr. Daugherty's 2008 returns are otherwise subject to IRS review; is that fair?

A. Can you restate that for me, please, sir?

Q. So it's possible that the outcome of the dispute resolution mechanism pertaining to the Highland audit might impact Mr. Daugherty's 2008 liability; is that right?

A. You asked if it's possible? Yes, it's possible.

Q. Okay. But you're not aware of anything else that would cause and adjustment to be made to Mr. Daugherty's liability under his 2008 income tax return; is that fair?

A. I would disagree.

Q. Is Mr. Daugherty's income tax return being audited today?

A. No, sir. Not to my knowledge.

Q. Has it ever been audited, to your knowledge?

A. Not to my knowledge.

Q. Is there any aspect -- can you identify for the Court any aspect of his income tax return in 2008 that is the subject of IRS review today, other than the potential impact from the ultimate resolution of the Highland audit?

A. Outside of the IRS form 886, which specifically outlines Mr. Daugherty, then I would indicate that that document in itself would trigger the IRS.

Q. Right. But nothing other than that document. I'm saying, except for that, you're not aware of any review that the IRS was doing with respect to Mr. Daugherty; is that fair?

MR. BURLEY: Objection, Your Honor, asked and answered. He's already testified to this.

THE COURT: Overruled.

A. Can you restate that? Sorry.

Q. Sure. Other than the document that you just

mentioned, is there any other aspect of Mr. Daugherty's 2008 income tax return that you believe is the subject of the IRS' review today?

A. Not -- not that I'm aware of, no.

Q. Thank you very much.

And you have no reason to believe that the 2008 federal income tax returns for Mr. Daugherty and his wife are the subject of any ongoing IRS review or audit, correct?

A. Outside of the document that was part of the Highland Capital audit, no, sir.

Q. Okay. You're aware that the IRS field examiners completed their audit of Highland's 2008 tax returns in December 2017, correct?

A. Yes, sir.

Q. And the field examiners are IRS employees responsible for conducting audits, correct?

A. That is correct.

Q. And there was a form 4605 that reflected the IRS' final determination as to the audit, correct?

A. I don't remember the exact form, if it was a 4605 or a 4459. Typically what it's referred to is a revenue agent report.

Q. Can you go to Exhibit 15 in your binder?

A. Mr. Morris, do you want me to keep -- keep my spot on my report?

Q. Eventually, yeah.
A. Okay.
And you said 15, sir?
Q. Yes.
A. Okay. I'm there.
Q. This is the form 4605(a) that you just referred to; is that right?
A. This is a part of it.
Q. Okay. And this is dated December 8, 2017; is that right?
A. That appears to be the signature on the bottom right, yes, sir.
Q. Okay. And it's your understanding that this form reflects the IRS' final determination as to the audit, correct?
A. I'm not familiar with who did the actual field audit itself. Assuming that Linda Yao, it was the field auditor, then I would agree.
Q. Okay. And then in February 2018, do you understand that the tax matters partner informed Mr. Daugherty of the proposed adjustments flowing from the IRS' final determination?
A. I would have to look at the communications. I know there was a number of communications.
Q. Okay. Can you turn to Exhibit 16?

A. Yes, sir, I'm there.
Q. Do you understand that that's the letter from the tax matters partner, or somebody acting on behalf of the tax matters partner to Mr. Daugherty in February 2018 informing him of the outcome of the IRS audit?
A. Well, there's two parts to that question. I don't know that this is the letter. And I'm not sure as to whether Mr. Collins was representing the tax matters partner or not.
Q. Okay. But they do enclose the form, the IRS Form 886Z, correct?
A. That is correct.
Q. And if you turn to Exhibit 17. That's exactly what that document is.
A. Exhibit 17 does appear to be the Form 886Z.
Q. Okay. And if you go to the third page, the one in the lower right-hand corner ending in 31. That page sets forth MR. Daugherty's allocable share of the adjustment; is that fair?
A. That has a number there. I don't know that I agree that that is his allocable share.
Q. What do you believe his allocable share is?
A. That's -- that's part of the issue in terms of the assumptions and the speculation.
Q. Okay. So I appreciate the clarity.
That is his allocable share, though, based on the

adjustment that was set forth in the document that we just looked at that 4605(a), correct?

Do you know what, let's do it this way. Withdrawn.

If you go to Exhibit 15.

A. Yes, sir, I'm there.

Q. You'll see that the corrected amount on that document is about $170 million, correct, on (indecipherable word) 5(a)(3)?

A. It is approximately 170 million rounding, yes, sir.

Q. And is it your understanding that that is the IRS audit conclusion with respect to the proposed adjustments that are being made?

A. No, sir, I would not agree with that.

Q. Why is that?

A. Because you said proposed adjustment. The proposed adjustment would be 166 million because they did report 3 million.

Q. Okay. So they did -- so the corrected amount should be 169 in total; is that fair?

A. In total. That is the IRS' opinion, yes, sir.

Q. I appreciate the precision.

And then if you go to Exhibit 17 and you look at the document ending in Bates number 33, you'll find that exact same number that approximates $170 million, right?

A. I would agree, yes, sir.

Q. Okay. And so all that's happening on the prior page is that the IRS has applied Mr. Daugherty's partnership interest to that amount in order to yield the number that's in column 4; is that fair?

A. I believe that the IRS has indicated based off of the K-1 that Mr. Daugherty received that indicated .7403. However, again, I believe that there is quite a bit of subjectivity as to whether that is the correct percentage or not.

Q. Has anybody told you that the percentage is wrong?

A. Based off of my research, as indicated in my deposition, there appears to be difference -- differences in that -- in that ownership interest.

Q. Who -- who contends that ownership interest is incorrect?

A. That is part of my review.

Q. So you're challenging the percentage interest; is that right?

A. I'm not challenging it. I'm saying that there is question to that based off of the documents that I've reviewed.

Q. Has Mr -- to the best of your knowledge, has Mr. Daugherty ever challenged that number?

A. I believe Mr. Daugherty in my interview has indicated that he does not know whether that is a correct

amount or not.

Q. Have you looked at the partnership agreement to see if that's the number in the partnership agreement?

A. Yes, sir, I have. And that's actually why there's a discrepancy.

Q. Okay. I thought you testified in your deposition that you never looked at the partnership agreement. Am I mistaken?

A. No, sir. I think I indicated.

Q. Okay. So is the discrepancy that you're talking about between the number in the partnership agreement and the number on this document?

A. Yes, sir.

Q. Okay. Do you know what the difference between those two numbers are?

A. Well, in the partnership agreement there was a second -- a second amend to a second amendment that actually had four different percentages and then as well as an additional issuance that didn't tie to any of those four ownership interests.

Q. Let's go to that document. It's Exhibit 10.

A. Yes, sir, I'm there.

Q. Can you go to Exhibit A, which is Bates number ending 48?

A. Yes, sir, I'm there.

Q. And Mr. Daugherty's percentage is reflected at 783, correct?

A. That is correct.

Q. Okay. And if we go back to Exhibit 17, it's represented at 7.4 -- 7.7403; is that right?

A. That is correct. As well as additional percentages in the body of the agreement.

Q. Okay. So as between the two, Mr. Daugherty would be better off with the lower number; is that fair?

A. Again, there's multiple different percentages that's in this document.

Q. But that's the only one that -- that's the one -- I don't want to argue with you. It's fine.

The tax matters partner disputed the adjustments that the IRS determined after the field audit was concluded, correct?

A. That is my understanding, yes, sir.

Q. Okay. And all that's happened since the beginning of 2018 is a dispute resolution process, correct?

A. I'm not sure in terms of the date. But my understanding is is that there is a dispute resolution process currently ongoing.

Q. Okay. The IRS' determination hasn't changed, all that's happening is the tax matters dispute is being attempted to be resolved; is that fair?

A. I disagree because the IRS in the correspondence that I've reviewed, there is the dispute resolution component going on. The appeals office had indicated that they tend to lean towards the field examiner. However, that they were willing to take a second look at it. And so there are multiple -- there are multiple discussions being made in terms of what actual numbers apply. I'm not sure.

Q. Only the field examiners conduct audits, correct?

A. The field examiner is the one that conducts an audit, yes.

Q. Appeals do -- the appeals group within the IRS does not conduct audits, correct?

A. They do not conduct it. Rather they are part of the dispute resolution and can negotiate it.

Q. Okay. So the field examiner's determination has not changed as of today, correct?

A. I have not seen any evidence to indicate that, yes, sir.

Q. Okay. And there's been settlement negotiations, to the best of your knowledge; is that fair?

A. That is my understanding, yes, sir.

Q. And there's been attempts at mediation; do you understand that?

A. I recall references to settlement conferences. So if you want to say settlement conference is mediation.

Q. And then -- and then if the tax matters partner still doesn't agree, he could appeal to the IRS appeals group, right?

A. My understanding is is that he has appealed to the appeals group.

Q. And if he doesn't like that outcome, he can still go to the Tax Court, correct?

A. That is one option. There are other options.

Q. Okay. But nobody other than the field examiner conducts IRS audits, correct?

A. That is my understanding.

Q. At the time of your deposition you were not familiar with the terms of the IRS' offer; is that right?

A. That is correct.

Q. Are you familiar with the terms of the IRS' offer today?

A. I am not.

Q. You're aware that, I think you just said, right, that -- that the tax matters partner appealed the IRS' determination to the appeals unit within the IRS?

A. That is my understanding from correspondence, yes, sir.

Q. Okay. You're not offering any opinion as to the likelihood the tax matters partner will succeed on that appeal, correct?

A. I am not.

Q. In fact, handicapping the tax matters partner's likelihood of success was beyond the scope of your engagement, correct?

A. I was not asked to do that, correct.

Q. So let me just ask you a couple of hypotheticals. If you knew today that whether by agreement or final judicial determination that the amount owed by Mr. Daugherty as a result of the conclusion of the IRS audit was a million dollars and you assume that his tax rate is 40 percent, you would agree before you get to interest and penalties that Mr. Daugherty would owe $400,000; is that fair?

A. You're asking me to assume a million, assume a 40 percent tax liability?

Q. Yes.

A. Then I would -- I would say under that assumption, that it would be 400,000.

Q. And then you might add to that interest and penalties pursuant to the tax bill, correct?

A. Assuming that, again, there are a multitude of other factors as it relates to his other investments and his other tax -- his other tax income could affect the million or the 40 percent. So if you're asking me to only look at the million and not take into consideration the rest of his tax picture, then, yes, I would agree that is 40 percent.

Q. Do you know what the agreement is that Mr. Daugherty is seeking to enforce today? Do you know what the agreement is?

A. In terms of -- you're going to have to be more detailed, please, sir.

Q. Can you describe for the Court your understanding of the agreement that Mr. Daugherty is seeking to enforce today?

MR. BURLEY: I'll object, Your Honor. That's vague. I'm not even sure I understand the question. He's talking about the employment agreement and the common benefits statement, again, those are not germane to this expert witness' testimony.

THE COURT: Can you add more to your question?

Q. You're suggesting -- are you suggesting that Highland -- that as part of the agreement Highland was going to guarantee Mr. Daugherty's income tax return, even if adjustments are made based on his own personal tax attributes?

A. You asked me a hypothetical question. And what I was saying -- indicating is -- you asked me a hypothetical. And what I'm saying is is that if we are only looking at a million dollars in a vacuum, then 40 percent would apply to that million. However, there could be other factors that offset that million that then either lower that million or

change the tax rate.

Q. But none of those factors have to do with Highland's -- the audit of Highland's 2008 income tax return; is that fair?

A. Restate that for me.

Q. Whatever it is you're thinking about in your head has absolutely nothing to do with the finality of the audit of Highland's 2008 income tax return, correct?

A. It has to do with my opinion, no, not with the audit itself -- yes, not with the audit itself.

Q. Okay. Because I'm asking you to assume that as a result of the audit he's taxed with a million dollars of additional income, right? That's the assumption I'm asking you to make.

A. And given that assumption, you have to take into consideration his other -- his other personal tax issues to determine whether or not there is an offset to that million and whether or not the tax rate is increased or decreased.

Q. But those things that you're talking about right now have nothing to do with Highland's 2008 income tax audit, correct? They're about Mr. Daugherty's own personal tax attributes, correct?

A. Well, I'm confused because I feel like at one point you're asking me to exclude and only look at the audit, but then also go back to my opinion as to what the impact is on

Mr. Daugherty. And so it -- and I'm just trying to clarify that as it relates to how it impacts Mr. Daugherty, there are other factors that have to be taken into play.

Q. But those other factors relate solely to Mr. Daugherty's personal tax attributes, correct?

A. And the -- correct and the impact, the ultimate impact that the audit would have on Mr. Daugherty.

Q. But I'm telling you to assume that it's a million dollars. That's not an impact that you have to take into account. Do you understand that?

A. I -- obviously I do not.

Q. Okay. I'll try one last time. Mr. -- Highland's 2008 income tax returns are subject to a dispute resolution concerning -- as a follow up to the audit, right?

A. That is correct.

Q. And we know from the document we just looked at how much the IRS has allocated to Mr. Daugherty, correct?

A. Yes, sir.

Q. Okay. You're not aware of Mr. Daugherty's tax return being under audit today, correct?

A. That is correct.

Q. You're not aware of any reason the IRS is going to adjust anything in this tax return today, other than as it may be impacted by the outcome, the ultimate outcome of the IRS audit of Highland, correct?

A. That's where I disagree.
Q. Okay. What is it you're aware of?
A. That the impact of the audit, what it will do to Mr. Daugherty's tax picture.
Q. But the impact on the tax picture is just a factor of his own personal tax attributes, correct?
A. That is correct.
Q. Okay. Thank you.
Can we go to Exhibit 65, please?
A. Yes, sir, I'm there.
Q. Before we look at that, are you aware that Mr. Daugherty estimated his potential tax liability?
A. I don't recall that.
Q. Did you ask Mr. Daugherty if he has any thought as to what his maximum tax liability might be?
A. I have not.
Q. Do you know what a proof of claim is?
A. I do.
Q. Did you ask Mr. Daugherty to see the proof of claim that he filed in this case?
A. I did not.
Q. Okay. So let's look at 65.
THE COURT: Just real quick, Mr. Morris, how much longer are you thinking? We're right at noon.
MR. MORRIS: Yeah. I think we can -- 10 or 15

minutes.

THE COURT: Okay.

Q. You sat here -- have you reviewed this document before today?

A. Yes, sir, I have.

Q. Okay. And you heard Mr. Klos' testimony, right?

A. Yes, sir, I did.

Q. Okay.

A. Well, I stepped out for a moment to go to the restroom. But I believe that I did hear the majority of it.

Q. Do you understand that looking at this chart, the first column where it says IRS income adjustment to HCMLP, do you see that column?

A. Yes, sir, I do.

Q. You would agree that you need that information in order to estimate the ultimate -- the ultimate amount of the claim. That's a fact that you have to know, right? You have to know what the total partnership adjustment would be for Highland?

A. I would agree.

Q. And would you agree that the numbers that Mr. Klos used there in that column are all fairly represented, that the 166 is the final determination by the field audit. The 129 -- I'll just -- let me withdraw it.

Those are the numbers -- those are the numbers as he's

described them; is that fair?

A. I would disagree.

Q. In what sense?

A. I would disagree in sense of column number 4, as well as column number 3.

Q. Okay. Column Number 4 is a column that relates to the IRS offer; is that correct?

A. That -- that's what it indicates. However, the footnotes that it indicates do not specify that number.

Q. Do you have any reason to believe that numbers were wrong?

A. Do I have any reason to believe that it's wrong?

Q. Have you -- do you have your own expert opinion as to the value of the IRS coffee?

A. I have not seen any evidence. So you would be -- given the support that is indicated here, I would have to speculate. I would have to speculate that that number is correct.

Q. Okay. And then the midpoint range, that's just math, that's 50/50, right?

A. Yes, sir.

Q. Okay. So there's nothing subjective about that either, right?

A. There is nothing subjective with 50/50. It is subjective to indicate as to whether or not this is an option

that the IRS would take.

Q. Okay. That's for the judge to decide.

The next thing you would do if you wanted to estimate the claim is apply the partners' allocation for that item, correct?

A. That is correct.

Q. And Mr. Klos used .7403, correct?

A. That is correct.

Q. And that's the -- that's the number that the IRS used, correct?

A. That is the number reported on his K-1.

Q. Okay. So in reliance on the K-1, Mr. Klos just used the number that was reported -- that Mr. Daugherty gave to the IRS, correct?

A. He assumed that was the -- he assumed that percentage of partnership.

Q. So it's your understanding that he filed his tax return, included the K-1, the K-1 had that percentage in it, and he received a refund in reliance on that K-1, correct?

A. That is correct.

Q. Okay. The next thing that you would do is you would calculate the partner's share, correct?

A. In terms of taking the IRS -- the assumed IRS income adjustment and applying the assumed percentage of partnership, yes.

Q. Okay. That's just -- that's just multiplying the income adjustment times the percentage interest, right?
A. That is correct.
Q. And then you would calculate the tax affect by determining the applicable tax rate, fair?
A. You have to assume that it's 35 percent. Based off of that assumption then, yes.
Q. Okay. And in your expert opinion, is 35 the highest personal income tax rate at the time?
A. In 2008 35 percent was the highest.
Q. So this is as conservative as it can be with respect to Mr. Daugherty, correct?
A. You would have to again look at his entire tax picture to indicate that.
Q. But his -- his federal income tax at that time couldn't be higher than 35 percent, correct?
A. I don't know that I agree with that.
Q. How much higher could it be?
A. That's -- that's part of the subjectiveness.
Q. Okay. So are you aware of any federal income tax rate for personal income taxes that was in effect in 2008 that was higher than 35 percent?
A. That was the highest tax bracket.
Q. Okay. Great. Then you've got -- once you do that, you get to penalties and interest, right?

A. No. You get to the actual tax underpayment.
Q. Okay. And what is -- and is that just math?
A. That is the calculation in terms of the share -- Mr. Daugherty's share of the IRS income. And, again, this is based off my understanding of this document, Mr. Daugherty's share of the IRS income and then applying a 35 percent tax rate.
Q. So to state it another way, it's to calculate the partnership basis impact; is that fair?
A. It doesn't -- it's not calculating the basis.
Q. It's arithmetic, though, right? It's taking Mr. Daugherty's share of the income adjustment and simply multiplying it by the highest possible tax rate, that's what Mr. Klos has done here, right?
A. Yes. He's taken two assumptions and made another assumption.
Q. And you would agree that there's nothing wrong with the way he's doing that at this point, of his methodology, correct?
A. I don't -- I don't agree with the variables. In terms of the math, the arithmetic, I don't disagree.
Q. Okay. Then the next thing you do is you assess if there's any underpayment, the process stops there, right? But if there's an over -- what's the next step you would do?
A. The next step would be to determine if there's an

underpayment or an overpayment.

Q. Okay. And what happens if there's an underpayment?

A. Then you would have to look at the penalties and interest associated with that.

Q. Okay. And that's exactly what Mr. Klos has done here, correct?

A. He has assumed a statutory penalty.

Q. Okay. And do you see that -- do you know if he has relied on the right statutes in order to do that?

A. There are multiple statutes as it relates to statutory penalty. And he's relied upon one.

Q. And those statutes are 26 USC 662 and 26 USC 6651, correct?

A. It is a part of 26 USC 6662.

Q. Fair enough.

And you understand that that's what he's relying on, correct?

A. That is correct.

Q. Okay. And then -- and then the next thing you do is you compute interest, right?

A. You would compute interest, that is correct.

Q. Okay. And he has applied a statutory blended rate and came up with 4.59 percent, correct?

A. That is what he has -- that is what he has done, yes.

Q. Have you made any attempt to calculate the interest rate that would be applicable?

A. I have reviewed the documents that were provided along with this document. And I have not taken the step to calculate the blended rate as much as the accrued interest.

Q. Okay. But, again, you know exactly what statutes to look at in order to do that, right, it's 26 USC Section 6601 and 6621, correct?

A. That is a potential statute.

Q. Okay. And then the last step, let's put aside line K. The last step would be to simply add up the tax underpayment, the statutory penalties, and the interest that's owed, correct?

A. No, sir. You've got to determine how long.

Q. Good point. That's the 10 years, 10 1/2 years that's there?

A. Yes. He has assumed 10 1/2 years.

Q. Okay. And you're not a bankruptcy lawyer, right?

A. I am not.

Q. And so for purposes of estimating Mr. Daugherty's claim against Highland, you're not offering any opinion as to whether Mr. Daugherty as a general unsecured creditor would be entitled to post-petition interest, correct?

A. Well, my opinion is is that that is an option and another variable that needs to be considered in determining

estimation.

Q. What is your basis for your opinion that the Court can award post-petition interest on a general unsecured claim?

MR. BURLEY: Objection, Your Honor. Mischaracterizes the testimony. He didn't testify that he thinks that's something the Court could or should do. He's talking about the impact on Mr. Daugherty. He's not talking about Bankruptcy Code provisions related to the post-petition interest availability or not. That mischaracterizes what this witness said. We've already said and stipulated that he's not a bankruptcy expert and he's not testifying about that.

THE COURT: Well, I believe his testimony was is that he's not certain as to whether or not Mr. Daugherty would be entitled to interest.

THE WITNESS: Correct.

THE COURT: And the question that was asked is what is your basis for that? So I'm going to overrule the objection. And to the extent you know the answer, you can answer the question.

A. My understanding is is that that is a question of law. And that that is another variable that has to be determined.

Q. So it's a variable for you, but it may not be for

the judge; is that fair?

A. Well, I believe that if that is a variable, that he would then consider. But I will leave that up to Your Honor.

Q. Okay. Can you go back to your Exhibit 59?

A. Yes, sir, I'm there.

Q. Okay. Can you go to page 11 of 15?

A. Yes, sir, I'm there.

Q. You provide a methodology for estimating Mr. Daugherty's claim against Highland, correct?

A. That is correct.

Q. And that is the exact methodology that Mr. Klos used in Exhibit 65, correct?

A. With -- with various assumptions, yes, that is the mathematical equation he utilized.

Q. And if you look at footnote 39, that is a footnote that relates to penalties, correct?

A. That is correct.

Q. And it refers to portions of the US Code, correct?

A. That is correct.

Q. Have you looked to see whether the exhibits Mr. Daugherty -- Mr. Klos relied on are the same as the documents that you're citing to in your own footnote for the determination of penalties?

A. Mr. Klos, as indicated, that statute has multiple different components to it with multiple different interest

rate, or penalty and interest. And he has applied one that -- of, I believe three that's inside of that statute.

Q. Okay. So which one do you think -- which one did he apply and which one do you think should apply?

A. He -- I'm not opining as to which one should apply because it depends on the variables associated with the equation.

Q. Okay. So you will admit that Mr. Klos is relying on the exact same statutes that you have cited in your own expert report in order to assess penalties, correct?

A. I will admit that he has taken one portion, not the entirety of the statute.

Q. Is there any portion of the statute that would result in the imposition of penalties that are higher than what Mr. Klos has put in his analysis?

A. Yes, sir.

Q. How much higher would it be?

A. I would have to look. I believe it's 3 percent.

Q. Okay. So instead of 20 percent, you think maybe it would be 23 percent?

A. No, no, no. My apologies, it's 30.

Q. 30 percent. And is that just for scenario five?

A. That is actually 30 percent is for what is deemed a reported transaction.

Q. Okay. Any other -- any other opinions you want to

share with the Court as to Mr. Klos' analysis?

A. Again, there are a multitude in terms of --

Q. I'm sorry to cut you off. I want to know every multitude that you're aware of. I want -- I want the Court to have all of the options here. If you disagree with Mr. Klos and his calculation of the penalty, even though he's relying on the same statute, would you please tell the judge what you think the penalty ought to be?

MR. BURLEY: Your Honor, I'd just object to the question, it's misleading. I want to kind of reframe and reset what we're doing here which is, Mr. Morris is using a demonstrative that was only recently provided to counsel that this witness has only had a few days to analyze and look at. This is not a substantive report or position of Highland in the substance, the duration of this case that this witness has had a fair availability to look at and prepare counter opinions on. It was not provided when he was deposed. It was not provided by the time he issued his report. It was not provided until I believe the end of last week. So my point there, Judge, if you want to take this line of questioning under advisement, you're of course entitled to.

But -- Mr. Morris, I'm sorry? I didn't know if he was chiming in.

My point simply is, Your Honor, this witness has not had this demonstrative to prepare in response in substance

to, because it's a demonstrative. That's kind of the whole point here. Mr. Klos is entitled to do it. We've not objected to it on that basis. But the notion that he can poke holes in my witness' potential lack of knowledge about something that he's detailed but only recently provided is inherently unfair.

MR. MORRIS: May I respond, Your Honor?

We disclosed Mr. Klos on our witness list, I don't know when. I personally expected them to depose him. I don't know why they didn't ask for that. But be that as it may, I think if you just look at the expert's report at pages 11 and 12, I think he has already acknowledged for you that Mr. Klos has applied the exact same methodology for estimating the claim that he did. All we're arguing now, to the extent there is an argument because they've relied on the exact same statutes for the calculation of penalties, they relied on the exact same statutes for the calculation of interest, is the witness is contending that maybe there was a different piece of the Code that would have resulted in a higher amount. And I don't care. I mean, I don't need to be right here. I want you to have the best information to do what I think is required under the law and that is estimate the claim. And if Mr. Klos has used 20 percent in the statute, the same statute that he uses but he thinks the number should be used is 30 percent, you decide if 20 percent or 30 percent is

right. I don't care. I don't care. I just want you to have the best information.

What I don't want is for them to say later on, oh, my God, there's so much uncertainty here. There's so much -- there's no -- there's virtually no uncertainty. Is it 7.03 that's in the K-1 or is it 7.38 that's --

THE COURT: Mr. Morris, I think you've gone beyond responding to the objection.

Okay. I'm going to overrule the objection. What I hear the question to be is his question -- he's questioning the witness based on the statutes that are being referenced for purposes of penalty what variables, or in what ways would they be different? He's not asking him to opine as to this calculation. He's asking, if you don't agree with this, what are the variables, or what are the rates that could be applicable based on the statute? That's what I hear the question --

MR. MORRIS: It's really that simple.

THE COURT: And so to the extent that you can answer that question, which you've somewhat already answered saying it could be as high as 30, please answer the question.

A. To answer the Court's clarification of it, you would have to look at the transaction itself. If it is a reported transaction under the -- if the IRS considers it a reported transaction, it could be 30 percent. If the IRS

considers it a simple underpayment, then it could be 20 percent. If they consider it to be a failure to pay, that has a percentage. All of those different components fall under the statute 6662.

Q. Do you have an opinion as to which one applies here?

MR. BURLEY: Objection, Your Honor. That's exactly what we just spoke about. This witness has said that this is the general basis. He doesn't have an opinion on that question --

MR. MORRIS: Great.

MR. BURLEY: Mr. Morris, please let me finish.

THE COURT: Please let him say his objection.

MR. BURLEY: Thank you, Your Honor.

That's the exact position we have here is that he was not tasked with doing the math himself. You can see that in our report. He was tasked with analyzing the situation and the lack of variables and the lack of clarity. So he's already answered Your Honor's question which is, give me a general framework for what's applicable here, potentially applicable here. And then Mr. Morris asked the question that you said is arguably impermissible, which is, and how does it apply? That's not fair here.

And I will also say to Mr. Morris' prior speaking objection, he might have disclosed Mr. Klos as a witness. He

certainly did not disclose this demonstrative at the time of that disclosure. So that's an inherently unfair way to characterize that disclosure.

THE COURT: All right. I don't want a response.

I'm going to overrule the objection. He asked whether he has an opinion. If he doesn't have an opinion, he can state whether he does or doesn't.

Q. Do you have a view as to what the maximum penalty?

A. Not at the time, no, sir.

Q. Okay. How about with respect to interest? Mr. Klos used 4.59 percent. Have you made any attempt to calculate the interest rate that would be applicable?

A. I have not.

Q. Okay. You do understand that Mr. Klos relied on the exact same statutes that you've cited in your report, correct?

A. General, broadly, yes, sir.

Q. Okay. You don't -- he cited to the right statutes in your opinion, correct?

A. He cited -- yes, I would agree.

Q. Okay.

MR. MORRIS: I've got nothing further, Your Honor.

THE COURT: All right. We're at 12:15. We're

going to take, I don't want to give us too short a time. We're going to take an hour recess for lunch. We're back at 1:15.

MR. MORRIS: Thank you, Your Honor.

(Lunch recess ensued.)

THE COURT: All right. Mr. Liles Tim if you'll go ahead -- did I say your name, right?

THE WITNESS: Liles-Tims.

THE COURT: Liles-Tims, okay, I apologize. Mr. Liles-Tims, if you'll go ahead and take the stand. And, again, you're still under oath, sir.

THE WITNESS: Yes, sir.

THE COURT: Give me just one moment while I pull up my notes.

MR. BURLEY: Of course.

FEMALE SPEAKER: Judge, I have defendant's binders here, if you'd like them.

THE COURT: That will be fine.

MR. BURLEY: Judge, for my direct, we're putting the exhibits up on the screen.

THE COURT: Okay.

MR. BURLEY: So ideally you can avoid having to rummage through.

THE COURT: All right. You may proceed.

MR. BURLEY: Thank you, Your Honor. Again,

Reid Burley with Gray Reed.

DIRECT EXAMINATION

BY MR. BURLEY:

Q. Mr. Liles-Tims, could you formally introduce yourself to the Court, please.

A. Sure. My name is Trevor Jason Liles-Tims. I go by T.J.

Q. And what is your current position and where are you employed?

A. I'm employed at Weaver & Tidwell LLP, which is a certified public accounting firm. And I am a partner at the firm.

Q. And can you generally describe to the Court the types of services that Weaver provides?

A. It provides tax services, as well as audit -- audit functions and a multitude of advisory functions, as well.

Q. What are your areas of expertise at Weaver?

A. Sure. So my areas of expertise are business valuation, as well as quantification of personal economic damages, as well as fraud examination.

Q. Can you describe to the Court briefly your educational background, degrees, certifications you have?

A. Sure. So I attended Cornell University. Ultimately got my bachelors in finance from the University of Central Oklahoma. And I got my masters degree from the

University of Central Oklahoma in 2007. I also hold the Certified Valuation Analyst credential under the -- that is issued by the National Association of Certified Valuators & Analysts. I hold the Certified Fraud Examiner credential that's issued by the Association of Certified Fraud Examiners. And I also hold the Master Analyst in Financial Forensics credential that is issued by the National Association of Certified Valuators & Analysts.

Q. How long have you been doing this type of work?

A. I have been doing this line of work approximately 23 years.

Q. Okay. And have you previously been qualified as an expert in federal court proceedings?

A. I have.

Q. In state court proceedings?

A. Yes, sir.

Q. Arbitration proceedings?

A. Yes, sir.

Q. Okay. And have you authored or coauthored publications in your line of work?

A. Yes, sir, I have.

Q. Can you just generally -- I know they're a little bit voluminous. Can you just give the Court a picture of what you've done in that regard?

A. Sure. So one of the designations that I indicated

that I have is the Master Analyst in Financial Forensics. I am one of the coauthors of the curriculum for that credential. I also teach for that credential. I teach fraud examination at the University of Central -- sorry, no longer. I used to teach at the University of Central Oklahoma. I now teach fraud examination at Oklahoma City University. And I do various teaching courses for the National Association of Certified Valuators & Analysts.

Q. Great. And in all of the work that you've done in those roles you have, do you deal with IRS matters in that line of work?

A. Yes, sir.

Q. Okay. Can you elaborate to the Court on your experience with IRS matters and related tax issues?

A. Sure. So one -- in fact, my very first federal court case was an IRS tax matter where an individual was a bookie and accused of not reporting income. And it was a forensic accounting in terms of challenging the audit as it relates to what income was, in fact, reported. I have also, I deal with tax returns and the IRS for estate tax matters, gift tax matters, charitable contribution matters. I'm familiar with the audit process as it relates to that. I actually got permission to indicate this, that I am -- I have been actually retained by the IRS in audit matters in terms of calculating differences between the taxpayer and the IRS.

Q. That's great.

And Mr. Liles-Tims, you testified earlier you're not a CPA. Did someone else that works with you at Weaver, one of your colleagues, coauthor and review this report with you in this case?

A. Yes, sir, he did.

Q. Okay. Who is that?

A. His name is Gary McIntosh.

Q. Do you work with Mr. McIntosh regularly?

A. Yes. Mr. McIntosh is actually a managing director for Weaver & Tidwell. And I want to give Mr. McIntosh his credit. Mr. McIntosh has put in 50 years in the profession. And due to our partnership agreement, he can no longer be a partner. And that's the only reason he's not a partner and is a managing director.

Q. Thank you.

And he's a CPA, correct?

A. He is a -- he holds the certified public accountant as well as certified in financial forensics.

Q. Okay. And did he confirm to you the conclusions laid out in your report?

You can answer.

A. Mr. McIntosh and I did --

MR. MORRIS: Objection; hearsay. This is not right. He's not here testifying. It's not right. Hearsay.

THE COURT: He asked -- well, do you want to rephrase the question, or --

MR. BURLEY: I can. I'm not sure if I need to, but I can. I can reask it.

THE COURT: Well, why don't you rephrase the question.

MR. BURLEY: Okay.

Q. Mr. Liles-Tims, did Mr. McIntosh review your report in this matter?

A. Yes, sir, he did.

Q. Did he approve it?

A. Yes, sir.

Q. Including the conclusions you came to?

A. Yes, sir.

Q. Okay. Thank you.

Mr. Liles-Tims, who retained you in this matter and on whose behalf?

A. I always get confused on this. Mr. Daugherty retained me and Gray Reed contacted me.

Q. Okay. And what were you asked to do in connection with this case, generally speaking?

A. To review the audit that is being conducted by Highland -- or by the IRS for Highland Capital. And determine whether or not the outcome or the impact of that audit can be determined on Mr. Daugherty's behalf.

Q. Okay. And did you prepare a written expert report in this case?
A. Yes, sir, I did.
Q. Okay.
MR. BURLEY: Laura, if we could turn to Defendant's Exhibit 82, please.
Q. Just let me know once you've gotten there.
A. Yes, sir, I'm there.
Q. Okay. And is this the report that you prepared for this case?
A. Yes, sir, it is.
Q. Okay. Who assisted you in preparing this report?
A. A gentleman by the name of Mr. Logan Woods.
Q. Okay. And what is his role with Weaver?
A. Mr. Logan Woods is my senior manager.
Q. Okay. And is that in addition to Mr. McIntosh's, you know, work on this report that you talked about earlier?
A. Yes. Both individuals worked under my direction. Mr. McIntosh reviewed the report and agreed with the opinions. And Mr. Woods assisted in drafting the report.
Q. Okay. And what's your hourly billing rate for the services you're providing in this matter?
A. I believe its 595 an hour.
Q. Okay. And is your compensation in any way contingent upon the outcome here today?

A. No, sir.

Q. Okay. Generally speaking, what documents and information did you review as you prepared that report?

A. Generally speaking, and as Mr. Morris pointed out on page 1 of 1, very last page of my report are all of the documents reviewed. However, generally speaking, I reviewed correspondence between the IRS and the tax matters partner. I reviewed the partnership agreement, amendments thereto. I reviewed, you know, various emails, various hearing transcripts, and various other documents.

Q. Looking now at your report --

MR. BURLEY: And, Your Honor, I'll mention that Defense Exhibit 82 has been pre-admitted in this case over no objection. So this is in evidence already.

Q. Mr. Liles-Tims, let's go to your first opinion in this case. Can you tell the Court generally what that first opinion of your's is?

A. Yes, sir. So that first opinion would be on page 7 of 15 on my report. And basically the first opinion is an opinion as to the professional standards that someone that holds the credential of the certified fraud examiner, as well as a master analyst in financial forensics has to adhere by in terms of relevant, reliability, reasonable certainty, and then also discusses how those professional standards also come into play and are basically dictated by Federal Rules of

Evidence 702.

Q. Okay. And although you're not a lawyer, you're aware of and familiar with the requirements of providing expert testimony in cases, correct?

A. Yes.

Q. Okay. Let's go to your second opinion there, your first substantive opinion, I may add. I think it's a couple of pages later.

A. It's actually page 8 of --

Q. Opinion number two.

A. -- 8 of 15.

Q. Okay. Thank you.

Okay. Mr. Liles-Tims, can you tell the Court generally what your opinion number two is, which is your first substantive opinion in your report?

A. Sure. So opinion two is effectively that the IRS audit process has not been finalized. And based off of the correspondence that I have seen, there does not appear to be a conclusion in the near future.

Q. Okay. And let's talk about that term a little bit. What is your understanding, from your expertise, as to the term, final determination when it comes to IRS audits and related disputes?

A. Sure. So final determination is not a term -- is not, you know, a defined term. You know, a taxpayer may

consider the final determination to be once they have a judicial remedy, whether that's to pay a refund, file in federal court to get that refund. It may be a situation where they file in tax court and the Tax Court then render an opinion, the Federal Court render an opinion. The IRS could consider their final determination to be, you know, a field examination, to the extent that that's what they stick with. It could be once they've determined their opinion, once it goes through the appellate process. So final determination is really dependent on who's asking the -- who you're asking the question of.

Q. Gotcha.

Did you review the settlement agreement between Mr. Daugherty and Highland in this case?

A. Yes, sir, I did.

Q. Do you remember that including the language, final determination --

A. I --

Q. -- generally speaking? I'll pull it up shortly.

A. Generally speaking, yes, sir.

Q. Okay.

MR. BURLEY: Ms. DeBerg, if you could go to Plaintiff's 5, please.

Q. Okay. Are you there?

A. Yes, sir, I am.

Q. Is this the settlement agreement that you reviewed in this case?

A. Yes, sir.

Q. Okay.

MR. BURLEY: Your Honor, this is Plaintiff's Exhibit 5. It's been pre-admitted in this case.

Ms. DeBerg, if you could go to page 12 of this exhibit, please.

Q. Okay. Mr. Liles -- are you there, Mr. Liles-Tims? Or do you have it on your screen, as well?

A. I've got it both, hard copy and electronic.

Q. Okay. Got it all covered.

If you look at that top paragraph, which is a continuation of what appears to be paragraph 9, do you see the second full sentence beginning on that page with, Any litigation by and between?

A. Yes, sir.

Q. Okay. And it states, Any litigation by and between the debtor and Daugherty concerning the validity and amount of the reserve claim shall be stayed until the IRS makes a final determination with respect to the IRS audit dispute. Do you see that?

A. Yes, sir, I do.

Q. Okay. And final determination is not capitalized, but is IRS audit dispute, does that appear to be a

capitalized term?

MR. MORRIS: Your Honor, I object to this line of questioning. It's completely irrelevant to whether or not the claim should be allowed or estimated. What they're trying to do here is to revisit the issue that was the subject of their motion to dismiss last fall. And that is whether or not this matter should have been stayed. The Court addressed that issue last fall. Denied the motion to dismiss. That motion to dismiss denial was not appealed. The only thing that was appealed was the Rule 60 order. And I object to any questioning on a document that is not really the subject of any particular opinion they're trying to get in today. I don't even know why, because the case -- because the issue's over. But we're going to waste time now trying to buttress an argument that was rejected by the Court last fall.

MR. BURLEY: If I may?

THE COURT: You may respond.

MR. BURLEY: Your Honor, I'm just getting into what Mr. Morris got into with the witness, which was a relatively lengthy examination regarding when the IRS concluded, is it final, you know, you heard him talk about the field examiner. They've done what they've needed to do. All of that goes to this usage of final determination and the ongoing dispute between the parties. I only have a few more

lines of questions here. But it's directly on point and specifically in response to lines of questioning from Mr. Morris.

THE COURT: Okay. The Court will weigh whether this line of questioning and testimony is relevant to the matters. So the Court's going to overrule the objection.

MR. BURLEY: Thank you, Judge.

Q. Mr. Liles-Tims, if you could flip one page prior to page 11. We'll look at that defined term, IRS audit dispute.

A. Yes, sir, I see it.

Q. Okay. At the bottom of page 11 you see that there?

A. Yes, sir.

Q. And can you read out loud to the Court what is meant by IRS audit dispute in that parenthetical?

A. Do you want me to read the whole sentence, or just the --

Q. No, just the parenthetical that defines IRS audit dispute.

A. Okay. The dispute between the debtor and IRS being referred to herein -- herein as IRS audit dispute.

Q. Okay. So the dispute between the debtor and the IRS. Based on what you've reviewed in this case, is there still an ongoing dispute between the debtor and the IRS?

A. Yes, sir.

Q. Okay. Let's walk through just a few more of those.

Let's look now at Defendant's Exhibit 32.

THE COURT: Is this Defendant's 32 or Plaintiff's?

MR. BURLEY: Defendant's 32, Your Honor.

Q. Are you there?

A. Yes, sir.

Q. Thank you.

I'm showing you what's been marked as Defendant's Exhibit 32. This is a December 9th, 2019 email from Brian Collins at Highland to Mr. Daugherty. Do you see that?

A. Yes, sir.

Q. And do you see the third paragraph -- well, I should say -- let me start with the first paragraph. That last sentence, could you read that out loud, please, the by letter dated December 8th.

A. By letter dated December 8th, 2017, Exam indicated that they had concluded their audit and provided a summary report proposing certain adjustments to the 2008 return.

Q. Okay. And then if you look at the third paragraph beginning with Highland, that states that Highland will continue to defend against the proposed adjustments and prosecute the appeal. Do you see that?

A. Yes, sir.

Q. Okay. So based on -- and was this an exhibit that you reviewed in your report?

A. Yes.
Q. Or in conjunction with preparing your report?
A. Yes, sir.
Q. And based on your review of this, do you believe that the dispute between the IRS and the debtor is ongoing?
A. As of December 9th, 2019, yes.
Q. Okay.
MR. BURLEY: Ms. DeBerg, if you could now go to Defendant's Exhibit 17. And unfortunately I think that's another different one.
A. Yes, sir, I'm there.
Q. Okay. This is the February 28th, 2025 letter from Hunton, the law firm, to the IRS. Do you see that?
A. Yes, sir.
Q. Okay. And is it your understanding that Hunton represents Highland's tax matters partner in regards to their IRS dispute?
MR. MORRIS: Objection, Your Honor. I just want to clarify. It's not Highland's tax matter partner. It's the tax matters partner who's overseeing the return, but they have nothing to do with Highland today. I just want to make that clear. I hope there's not -- because I heard the word, debtor, before. This is not -- this is not our's any more. That's why we're not involved. That's why we have no knowledge of what's happening today. The tax matters

partner.

THE COURT: I mean is that your understanding?

MR. BURLEY: Yeah. I mean, it's the tax matters partner, correct me if I'm wrong, that is in charge of managing, resolving the audit of Highland. But, yes, my understanding is that Highland, as they sit here today, don't have direct involvement with the tax matters partner. If that's what he's getting at. I understand that.

MR. MORRIS: It's not just direct. It's not indirect. It's not anything. This has nothing to do with reorganized Highland Capital Management.

THE COURT: Okay.

MR. BURLEY: Fair. We'll continue.

THE COURT: You all can't testify. He has to testify. So if you want to ask questions that gets him to testify that he understands that, or if he doesn't, that's fine. But the Court will take the evidence and gather its understanding from the testimony of the witnesses.

MR. BURLEY: Of course. Thank you, Judge.

Q. Mr. Liles-Tims, do you have an understanding as to whether Hunton represents the tax matters partner that is involved in this audit dispute?

A. That is my understanding.

Q. Okay. And this letter, again, February 28th, 2025, based on your review of this -- strike that. Let me ask you,

was this exhibit part of your review in preparing your report?

A. I recall the letter. I don't recall the power of attorney that's attached to it.

Q. Okay.

A. But I do recall the letter.

Q. Okay. And based on your review of the letter, do you believe that the dispute between the IRS and Highland has concluded or not?

A. Based on my read of the letter, it has not concluded.

Q. Okay. And this letter, again, February 2025, is this the latest correspondence or information that you have in your possession related to this dispute?

A. I believe so. There was a new letter that was attached to Mr. Klos' and I don't recall the date of that letter. But I do believe this is the last one.

Q. For that letter that you're referring to, do you recall if it indicated there had been a resolution of the dispute or not?

A. No. There -- no, to the contrary.

Q. Okay. Mr. Liles-Tims, switching gears briefly we've talked a lot and you've already been examined about what materials are at issue here with regard to the IRS dispute. And switching gears to Mr. Daugherty as a taxpayer

and a profits interest partner of Highland, in your opinion what is the information that Mr. Daugherty would need to be able to understand his tax picture as it relates to this audit dispute?

A. Sure. It goes back to the question about final determination in terms of, you know, the taxpayer. So what Mr. Daugherty would need is a letter from the tax matters partner indicating this matter has been finalized. Here is your final K-1 that you now need to amend your return, or not, or it would be the outcome from the judicial venue of either the Tax Court or Federal Court.

Q. And in addition to the -- excuse me. In addition to the K-1, is there anything else that Mr. Daugherty as a taxpayer could or, I should say would need to determine that final picture for himself? Are there other forums out there that would give him clarity?

A. No. He would need -- he would need an amended K-1.

Q. Okay. What about the Form 886, how does that have an interplay here?

A. The Form 886 is not generally provided to the taxpayer. That is a tax matter partner issue. And so that's handled more at the partnership level than the partner level.

Q. Gotcha.

Have you seen anything in this case regarding what you just testified to that would give Mr. Daugherty that clarity

as to his tax picture?

A. No, sir, to the contrary in terms of the correspondence that was provided that this matter is ongoing.

Q. Okay. Are you -- and I know that you are not Mr. Daugherty. Are you aware of him, or have you reviewed any documents that would show that he's received confirmation from the IRS that the disputes been resolved?

A. I am not aware of any such, no.

Q. Okay. And given that absence of a final determination between the parties, is it your opinion that any expert can reasonably opine on the outcomes here?

MR. MORRIS: Your Honor, he's really leading the witness here. So I object on leading grounds. The answer, all he's going to do is give yes or no answers to these kinds of questions. He's asking him basically a leading question.

MR. BURLEY: Your Honor, yes or no is an open-ended question, it's either yes or no. It's not leading.

THE COURT: Yeah. I'm going to overrule the objection. I don't believe the question was leading.

Q. Mr. Liles-Tims, let's move on to your second opinion which dovetails a lot with Mr. Morris' cross of you which is the process of calculating these, you know, the estimation, the damages, however you want to call it.

What is your general opinion about that process and the ability for someone like Mr. Daugherty to accurately calculate his liability? Just generally speaking.

A. Generally speaking the process of an audit is the issuance of a tax return. Then the IRS questioning that tax return, at which point then a field examiner is assigned. There's correspondence that goes back and forth between the taxpayer and the field examiner. The field examiner will then issue generally what is referred to as a revenue agent report, an RAR. And then from that standpoint the taxpayer then has the ability to accept. They have the ability to negotiate with the field examiner. And if unsuccessful, then it goes to the appeals. Then the appellate process or the appeals process is a much more lengthy process at which point then the appeals can say, we are standing firm with the field examination, or they can modify through negotiation a different stance at which point if -- if that's their final stance, the taxpayer then has the option to actually pay that amount, file for a refund or whatever in federal court, or have the ability to take -- take the matter to tax court.

Q. And I believe that process that you're describing, which is on page 9 of 15 of your report, where in that process, in that flow chart is it your opinion that Mr. Daugherty and Highland's audit dispute is currently at?

A. It currently is at the settlement or the settlement

negotiation standpoint which then at times goes -- reverts back to what's referred to here as a closing conference. But in essence it's a settlement conference. And so there negotiations just go back and forth in terms of the settlement.

Q. Thank you.

Let's -- let's turn now to Highland's demonstrative, which is their Exhibit 65.

MR. BURLEY: Ms. DeBerg, if you could just put that up on the screen.

Q. I probably could have just given you an extra copy.

A. Now I've got to flip all of the pages back over.

Q. I know. I'm sorry. Too many papers.

MR. BURLEY: And, Your Honor, we're going to be flipping back to some other exhibits, as well. But if you'd like, I have a hard copy of the demonstrative if you need it.

THE COURT: I'm okay. Thank you.

Q. Mr. Liles-Tims, were you -- have you been able to review this demonstrative just in the past week or so?

A. Yes, sir.

Q. Okay. Was this demonstrative available to you when you were deposed in the case?

A. It was not.

Q. Okay. Was it available to you when you created

your report in this case?

A. It was not.

Q. Okay. Was it available to you when you created your report in this case?

A. It was not.

Q. Okay. Let's look at some of this. I know you walked through this with Mr. Morris. Going first to line B, row B, which is Mr. Daugherty's percentage of the partnership.

MR. BURLEY: Ms. DeBerg, can we please turn to Plaintiff's Exhibit 17, please?

Q. And, Mr. Liles-Tims, I think we can just leave that on the screen maybe, that way we can hopefully move a little bit more quickly.

A. Okay.

MR. BURLEY: If you could go, I think, to the next page, Ms. DeBerg.

Q. Mr. Liles-Tims, based on your review, is this where the allocated partnership interest for Mr. Daugherty on the demonstrative comes from?

A. I believe -- I recall Mr. Klos' testimony was that it was from here, as well as the K-1.

Q. Okay. And this Form 886 and that K-1, like we talked about, have those or have those not been finalized between the parties at dispute here?

A. I don't believe -- I do not believe that they have been finalized.
Q. Okay.
MR. BURLEY: Ms. DeBerg, if you could go to Plaintiff's 8, please.
Q. And I think it's page 54, which is Bates 4319 at the bottom. This is the second and amended restated partnership agreement.
MR. BURLEY: Thank you. That's great.
Q. Mr. Liles-Tims, like I said, this is the second amended and restated partnership agreement between the relevant parties. What is that percentage that's allocated to Mr. Daugherty there?
A. .608.
Q. Okay.
MR. MORRIS: What exhibit is this?
MR. BURLEY: This is Plaintiff's Exhibit 8.
And, Ms. DeBerg, if you can now go to Plaintiff's 10, please.
Q. And, Mr. Liles-Tims, earlier you, I believe, spoke briefly about the fact that you had reviewed this, which is a second amendment to the second amended and restated. Do you recall that?
A. I do.
Q. Okay.

MR. BURLEY: Ms. DeBerg, can you please turn to page 7 of this one which, again, is Plaintiff's Exhibit 10? Thank you.

Q. And, Mr. Liles-Tims, on this one, which is the live version of the partnership agreement, what allocated interest does that have for Mr. Daugherty there?

A. .783.

Q. Okay. Are either of those numbers what are indicated in the demonstrative?

A. They were not.

Q. Okay. Let's go back to the demonstrative exhibit. We'll go down to the next rows.

MR. BURLEY: Okay. Thank you, Ms. DeBerg.

Q. If we could look at row D, Mr. Liles-Tims. Could you just please tell the Court generally your opinion on the usage of 35 percent as an estimated tax rate?

A. So 35 percent is the highest tax rate paid. However, there are other tax brackets, as well as this is -- this is the assumption of ordinary income tax and it's not -- it is not applicable to long-term capital gains, short-term capital gains, portfolio income. So those in itself have various tax rates, as well.

Q. And would it also not include things like ownerships of other entities, membership interest, et cetera, or would this include that?

A. Well, it would depend. Because the K-1 has -- so I believe the K-1 has approximately 21, 22 boxes that have various different income and expense categories. And so it would depend on how that income flows through on the K-1 to determine which is applicable.

Q. Okay. But your testimony is that it would depend?

A. That is correct.

Q. Okay. Looking at row F, which is statutory penalty, I don't need to belabor this, but you were examined about it earlier. Could you please tell the Court your opinion of the usages of 10 and 20 percent as the -- I should say also add 0, as the only estimated penalty numbers on this demonstrative?

A. Well, according to the 26 IRC 6662, the amounts that are shown are 20 percent and 30 percent. I reviewed and did not see a 10 percent. I believe I recall Mr. Klos saying that the 10 percent was based off of a -- off of a 50 percent. I forgot the term used in the latter, but essentially a 50 percent negotiation.

Q. So in your opinion the penalty rates, the statutory penalty rates that are included on this demonstrative, do those encompass all potential penalty numbers?

A. They do not.

Q. Okay. Let's look down at row G, which is the applicable blended rate. And that is footnoted or endnoted

as sub (3), which is defined on the next page.

Mr. Liles-Tims, in regards to that blended rate, could you give the Court your opinion on the validity of using an averaged out number like this demonstrative has done?

A. Sure. So utilizing a blended rate whenever you are calculating compounded daily interest is highly inappropriate because it does not take into account that compounding. And so what you would have to do is literally you would have to calculate that number out due to a -- because as indicated by the footnote, that is a figure that is determined quarterly. And that number is then compounded daily.

Q. And although this demonstrative purports to cite to those provisions of the Code, you know, dictating you use the prime rate, do those provisions of the Code, in your opinion, tell you how to make this calculation in terms of compounding daily updated quarterly?

A. No. It -- rather what it does is it says this number is provided quarterly and should be compounded daily.

Q. Okay. But it doesn't do the math for you, the provisions of the Code?

A. No. It gives that -- the narrative that I just testified to as well as the rates themselves.

Q. Okay. And then in the time outstanding on years, I won't belabor that one. But you've testified earlier that -- and I believe that the Court's already heard testimony that

this is based on leading up to the petition date of Highland. Do you recall that?

A. I do.

Q. And in your opinion does their usage of 10.51 across the board in row H, does that cover all possible scenarios here?

A. I believe that that is a question for this Court as to where that stops.

Q. And, Mr. Liles-Tims, the final column -- I should say the second to row there, row K, which is income on previous refund, what is your understanding of what they've attempted to do with that row?

A. It is my understanding that they have tried to attempt to look and mitigate what the penalties and interest are by what the potential usage of those funds that Mr. Daugherty had the option of.

Q. And based on your experience in finance, do you believe that that's a fair assumption as to someone's usage of money over time?

A. I believe that you have to conduct a very thorough investigation to mitigate what we call in the industry to mitigate damages is in itself a calculation that you would have to look at multitude of different factors.

Q. Do you believe that this demonstrative is that very thorough analysis you're speaking of?

A. I do not.

Q. Okay. Mr. Liles-Tims, in conclusion, what is your opinion to the Court as to whether it is reasonable for an expert to opine on the outcomes of this demonstrative as we see here?

A. I don't believe that it fairly represents it. One of the -- the item that stuck out at first with this is a very simple finance 101 calculation of what we refer to as the Rule of 72. And that indicates that the Rule of 72 is you take 72 divide it by an interest rate, and that will tell you the number of years that it takes to double that money. And so in this calculation under I, the interest accrued, for instance, the first -- the first number -- first column with a number in it is a column 3. It indicates $103,860. And what's trying to be calculated here is what are the penalties and interest on the $215,488. But if you take that finance 101 calculation and you take 72 divided by 4.59, indicates that it would take 15 years to double that. Under this calculation that's 10 1/2 years. So that $103,860 should be very close to $430,000, or double that $215,000 number. And so what it appears, again, I have not had it very long. It appears what they've done is made an error in the calculation in trying to determine net present value, which is not appropriate in this situation. Rather what you're trying to do is determine a future value. And so I believe that it

significantly underestimates the interest accruing.

Q. Okay. And that number that you're pulling out of there to opine on, that's in column 3. I think you said they would go from 103 to in the 400s. That same extrapolation would occur and increase the numbers in columns 4 and 5, as well; is that correct?

A. That is correct.

Q. Okay.

MR. BURLEY: Your Honor, I'll pass the witness at this time.

REDIRECT EXAMINATION

BY MR. MORRIS:

Q. Let's go through this one more time.

You have the demonstrative there?

A. Yes, sir. Do you mind if I -- if I use this one?

Q. Sure. Sure.

A. Okay.

Q. You talked about the Daugherty's percentage of partnership interest, correct?

A. I recall that line of questioning, yes, sir.

Q. Okay. And you understand that Mr. Klos relied on the K-1 that Mr. Daugherty gave to the IRS to receive his refund, correct?

A. That is correct.

Q. And Mr. Klos relied upon the document that the IRS

gave the, what is it the 886?

A. Can you restate that for me? Sorry.

Q. The other document that also had the 7.403 percentage was a document that we looked at from the IRS.

A. The 886Z, yes, sir.

Q. Right. So you were asked a couple of questions about the partnership agreements, right, and you were asked about Exhibit 8. Do you remember that?

A. I recall being asked. I don't specifically recall Exhibit 8.

Q. Okay. That was the partnership agreement from 2004. It was amended and it's not relevant after it gets amended, correct?

A. Is that the nonamended one, because we looked at two. We looked at one that was a second amendment and then we looked at one that was a second amend to the second amendment.

Q. So take a look at Exhibit 8.

A. Yes, sir.

Q. Okay. That's dated as of December 31st, 2004, right?

A. That is correct. Effective as of February 29, 2004.

Q. That's right. And that's the document that had that .608 number in it, right?

A. Do you have that Bates label?
Q. I do. I do, sir. Good question. It ends with 4381.
And Mr. Daugherty's percentage at that time is 0.608, correct?
A. Yes, sir.
Q. Okay. But you know that this agreement was amended, right, because you reviewed the partnership agreements, right?
A. That's correct.
Q. Okay. So nobody would suggest using that number, right?
A. The .608?
Q. Yep.
A. Since it's amended, I mean, I would say that's a legal question. But my understanding is with an amendment then it supersedes this.
Q. You would never as a professional use a number from an agreement that was superseded and amended, would you?
A. If you're stating that it's superseded as an Officer of the Court then, correct.
Q. Okay. So go to the next Exhibit 9. That second amended and restated partnership was amended as of April 15, 2006, correct?
A. That is correct.

Q. Okay. And if you go to Exhibit 10, the second amended and restated partnership agreement was amended a second time, right?
A. That is correct.
Q. And that's as of April 15, 2007, correct?
A. Yes. But that number is different than the one --
Q. Just stick with me.
A. Okay.
Q. That was amended, correct?
A. That is a first amendment, yes.
Q. This is the second amendment, Exhibit 10 is the second amendment, correct?
A. I thought you had me on Exhibit 9, which --
Q. All right. I'll slow down.
So you established that Exhibit 9 is amended Exhibit 8, right?
A. Correct.
Q. And now Exhibit 10 amends Exhibit 9, right?
A. It doesn't indicate that it amends the first amendment. But logically speaking I would make that assumption.
A. Okay. And if you go to the page ending in Bates number 7748 you'll see that Mr. Daugherty's percentage is .783, right?
A. I do see that, yes, sir.

Q. Okay. In the work that you did, have you seen the second amended agreement ever amended again?

A. I have not seen, no.

Q. So is it fair to say that the Court could either pick the .7403 percentage in Mr. Klos' analysis that he got from the K-1 that he got from the IRS, or if he wanted to he could pick the 783 number out of the second amended agreement?

A. I don't mean to be controversial. But given the venue, I think the Court can do what they choose.

Q. But you have no -- there's no possibility in your mind, other than those two numbers, right?

A. Well, is there a possibility? Yeah, there's a possibility.

Q. What possibility is there, other than the number that was given to the IRS and the number that was given in the last amended partnership agreement, what other number could there be?

A. That -- you asked me what the Court could do and I indicated the Court could pick a number. And so --

Q. Okay. I'm asking your professional opinion, you're the expert.

A. Correct.

Q. You've been given information, right?

A. Correct.

Q. Do you have any information, other than the number in Mr. Klos' chart or the number in the second amendment to the second amended restated partnership agreement?

A. I do not.

Q. Thank you. That's the uncertainty.

Let's go to --

MR. BURLEY: I'll actually move to strike that side bar. That wasn't a question, Your Honor.

Q. Let's go to the second --

THE COURT: I'm -- look, this isn't a jury -- this is not a jury trial. I know how to handle what is being said and what isn't.

MR. BURLEY: Understood.

THE COURT: So I'm going to overrule the objection. But let's try to keep remarks down.

MR. MORRIS: Okay, Your Honor.

Q. Let's go to the next one, the applicable tax rate, 35 percent. You admit that that's the highest personal income tax rate that existed in 2008, correct?

A. We were on agreements. Where are we at now?

Q. I'm on the next line, applicable tax rate.

A. So you're on the demonstrative?

Q. Yep.

A. All right.

Okay. And what line now, Mr. Morris?

Q. The one that says, 2008 applicable tax rate, 35 percent.
A. Yes, sir.
Q. And you agree that that's the highest individual income tax rate that was in existence on a federal level in 2008, correct?
A. On a federal level, yes, sir.
Q. Okay. So sticking on a federal level, is there any reason the Court shouldn't apply that 35 percent in this case?
A. It depends, again. That is the highest -- the highest level.
Q. Okay. It can't be higher, fair?
A. I don't want to say it can't be. I mean, at the federal level that is the highest tax rate.
Q. Okay. Let's go to -- where are we next, the applicable statutory blended rate? Is that the next input? Oh, penalties, I'm sorry, penalties.
You took issue with the 10 percent on model three; is that right?
A. That's correct.
Q. And that's because it says, 20 percent in the -- in the regulation that you looked at?
A. In the statute it says 20 percent or 30 percent depending on which -- which part of it you're looking at.

Q. So if the Court used 20 percent or 30 percent, you would have no qualm with that, right?
A. I believe that -- no, no, I would not.
Q. Okay. And if the Court used 20 percent or 30 percent for the fifth scenario, you'd have no qualms with that, right?
A. To the extent that the Court looked at the statute and interpreted it as an Officer of the Court, then I would have no issue with it.
Q. Okay. Let's go down to the applicable statute -- the applicable blended rate. You said the problem with that was that they haven't taken into account compounding; is that right?
A. That is correct.
Q. Okay. Have you made any effort to try to compound and give the Court a number as to what the applicable statutory blended rate would be?
A. I have not calculated that. Rather I have looked at the attachment to opine that that number would not be correct. But I have not calculated it to determine what the correct number would be.
Q. How much time have you spent looking at this exhibit?
A. I don't know.
Q. Can you estimate?

A. I would say probably 10 hours.
Q. And in that 10 hours you didn't spend any time trying to figure out what the applicable tax rate might be?
A. The applicable tax rate?
Q. I apologize. The applicable statutory blended rate, the interest rate.
A. I did not.
Q. Okay. Time here is outstanding. I think we've discussed enough. That's an accurate number if one was calculating it from the tax payment date to the petition date; is that fair?
A. That's fair.
Q. And then the last one is the income on the previous refund. You take issue with the analysis. Do I have that right?
A. Define -- restate that question, please.
Q. Yes. Fair enough.
Do you take issue with the use of a 4 percent interest rate for purposes of creating time value of money?
A. I think you may be mixed up, because you're talking about the income on previous refund doesn't -- doesn't impact -- or the 4 percent doesn't impact that.
Q. This is -- this is an attempt to value Mr. Daugherty's use of the money, right?
A. Agreed.

Q. Okay. Is 4 percent fair?
A. I do not believe so.
Q. How much lower than 4 percent do you think it should be?
A. I don't have an opinion on that.
Q. But is it fair -- you don't -- you haven't spent any time thinking about that either, right?
A. It -- that's another variable that could be lower and it could be higher.
Q. Okay. But we're here telling the Court that 4 percent is the right number. Is it fair to say that it's somewhere between zero and 4?
A. I believe it is equally likely to be zero to 4 as well as higher.
Q. Okay. But we're not asking you to do higher, right?
A. I believe the Court has that discretion.
Q. Okay. And then -- and then the last question I have is in terms of finality. Can you turn to, I think it's 15, Exhibit 15, Plaintiff's Exhibit 15?
A. Yes, sir, I'm there.
Q. Okay. So this is the 4605, this is the field audit report that was completed in December of 2017, right?
A. This is -- this is one page from it, yes.
Q. Okay. And according to this page the adjustment

that's being made by the field audit as a result of the audit is that there's $166,332,713 of adjustments that are being applied here, correct?

A. Of portfolio income, yes.

Q. Okay. That number has never changed, correct?

A. I'm sorry, do what?

Q. That number has never changed, to the best of your knowledge, correct?

A. To the best of my knowledge, I have not seen that number change.

Q. And the appellate office is not going to conduct a new audit, correct?

A. I -- I have not seen indications of such.

Q. Have you ever heard of the office of appeals and the IRS conducting an audit?

A. I have -- in terms of conducting an audit, no. In terms of adjusting a number, yes.

Q. Okay. But the -- I'll just leave it at that.

That number is the exact same number that is scenario five in Mr. Klos' chart, right?

A. That is correct.

Q. And you have never heard the IRS suggest that there should be a greater adjustment, correct?

A. I have not seen documents to such.

MR. MORRIS: No further questions, Your Honor.

THE COURT: I've got a few questions for you, Mr. Liles-Tims.

THE WITNESS: Sure.

THE COURT: I'm going to be looking at, it's Plaintiff's Exhibit 59, which is your report. And in particular I'm looking at page 9.

So the chart that you have there that goes through this process, I just want to make sure that I'm clear because I don't -- I've never handled tax matters. Once the field examiner has come out and stated what they believe the adjustment should be, other than through negotiations, does that adjustment change?

THE WITNESS: In -- sorry, were you finished?

THE COURT: Yeah, I'm finished. Sorry, yes.

THE WITNESS: So it typically does not change on paper as much as it changes in terms of formality where we saw the -- the 4506 as well as the 886. Those two forms typically don't change. However, settlement agreements and so on and so forth may specify a different number.

THE COURT: Okay. And typically speaking, is it your experience that in those settlement negotiations that is the highest number that they're working from? In other words, they don't go into a negotiation and ultimately come out and say, you now owe us 1. -- sorry, 180 million?

THE WITNESS: So there's two parts to that

question. That number typically does not change. However, when you add in penalties and interest, there are times where that number becomes larger because they're adding on penalties and interest to that number.

THE COURT: And would that -- would the 166 million, would the penalties and interest be added to the 166 at the Highland Capital level, or would it be added to the partners when they file their amended returns?

THE WITNESS: That is an excellent question. And it can happen on both -- on both scenarios.

THE COURT: Okay. Are you aware whether or not the 166 includes penalty and interest as it pertains to Highland Capital, the entity?

THE WITNESS: Based off of the 886 and the 4506, it does not include penalties and interest.

THE COURT: Okay. And then what would be the highest rate of penalty that could be imposed on that number?

THE WITNESS: That is where the -- the Title 26 IRC 6662 comes into play. And it specifies a range between, again, 20 and 30 percent. And if it's viewed as a corporation, which there's question of that because in technicality it's not a corporation, it would be 30 percent. Otherwise it would be 20.

THE COURT: If the IRS adds penalty and interest to the 166 million, do they have the right to add

penalty and interest at the partner level on the return of Mr. Daugherty?

THE WITNESS: Yes.

THE COURT: Since it's already been assessed at Highland?

THE WITNESS: Yes.

THE COURT: Okay. Can a penalty ever be higher than 30 percent?

THE WITNESS: I have not seen documentation to indicate higher than 30 percent outside of outright fraud.

THE COURT: Okay. And to your knowledge there's no allegation of outright fraud on this case?

THE WITNESS: I have not seen any, no, sir.

THE COURT: Okay. Continuing with your diagram here. If they never come to an agreement or settle this matter and it goes to either the Tax Court or Federal Court, as I understand the process, at any point can the Tax Court or the Federal Court impose a higher number than the 166, separate and aside from penalties and interest?

THE WITNESS: Separate and aside from penalties and interest, I have not seen that in my experience.

THE COURT: Okay. But it has a possibility of going down?

THE WITNESS: It does, yes, sir.

THE COURT: Okay. I think Mr. Morris kind of hit this, but I just want to make sure. We neither got Mr. Daugherty's partnership interest based on the K-1 and the 886Z form or based on this second amendment to the second amended partnership agreement, those are the two numbers that are out there, to your knowledge?

THE WITNESS: To my knowledge, yes, sir. Those are the two most recent.

THE COURT: Okay. Do you know what -- at what percentage Mr. Daugherty filed his return when he filed the return?

THE WITNESS: It would be the -- what was in the 886, which is, I believe, the .7403.

THE COURT: Okay. And if -- when the time comes for Mr. Daugherty to amend his return, if he amends his return and maintains what's in the K-1 or on the 886Z form, would the IRS have to audit him in order to change that number to what is stated in the second amendment to the second amended partnership agreement?

THE WITNESS: Sure. So there's -- there's two parts to that. Number one is that once a settlement is made, then that number has to be basically flow through the partnership agreement for proper allocations. So it's possible that that .7403 changes based off of that number. So for instance, if it settles at the 166 million, it has to

abide by that partnership agreement and have allocations of profits and losses and so on and so forth. So it's possible that number changes. To the extent that we are to assume the .7403, from there then, I'm sorry, you asked another question there that had to deal specifically with that. Can you reask that.

THE COURT: Yeah. My question is is if he's filed his return with the .7403, I believe, and the audit issue on Highland is done, they issue new K-1s, he amends his return based on the .7403, but the partnership agreement says it'.78 whatever the number was, is it not -- does that not change until the IRS audits him? In other words, what's the risk to Mr. Daugherty of it actually coming back and saying, no, you should have been at .7863, or whatever that number is in the partnership agreement?

THE WITNESS: I understand that question. The risk, in my opinion, is not at the IRS level, it's at the issuance of the K-1 level as to whether that number changes.

THE COURT: Okay. So assuming that Highland, I don't know if it's Highland or if it's going to be the tax partner, but whoever issues the new K-1, once that's issued that's what he's going to be using in order to amend his return and recognize what should have been income back in 2008.

THE WITNESS: Based on an assumption of this

is final determination then, yes, I would agree.

THE COURT: Okay. There's been conversation or testimony about 35 percent being the highest for individual income tax rate. Is this issue, would it be at the individual income tax rate, or would there be some other applicable rate that would apply in this situation with Mr. Daugherty?

THE WITNESS: That is an excellent question. And this is a partnership and so, therefore, the income flows through to the individual and therefore only the individual's tax rate is applicable.

THE COURT: Okay. And am I correct at that rate highest could be 35 percent?

THE WITNESS: From a federal perspective, yes. It's possible that it's higher, that it's higher due to, as I said, the allocations of income and everything. More likely than not, 35 would be the highest.

THE COURT: Okay. And it's your testimony, if I have it correct, that you have no idea, or you're unable to estimate or give the Court a timeline of when you believe this would be resolved?

THE WITNESS: No, sir.

THE COURT: No, sir, you can't give me a timeline, or, no, sir, you can?

THE WITNESS: No, sir, I cannot give you a

timeline. These audits are -- take on their own life.

THE COURT: Okay. And I realize you testified you did not do anything with the blended rate. But in your opinion, and based on your expertise, what do you believe would be the range of the highest rate of interest and accrual by the IRS that would be applicable to this situation?

THE WITNESS: Sure. So effectively the best way to answer that is to look at what the interest was over that period of time. And it ranged anywhere from 3 percent to 9 percent. And so, again, you would look at what is that blended rate actually compounding daily that interest to determine a blended rate. But it would be somewhere between 3 and 9 percent.

THE COURT: Okay. So let me make sure that I understand. Your dispute with this calculation is what is the blended interest rate amount, not in the methodology used to calculate the interest. Does that make sense?

THE WITNESS: It's actually the reverse.

THE COURT: Okay.

THE WITNESS: I don't take as much issue with the 4.59. I don't believe it is an accurate blended rate. It's the calculation of its use. And it goes back to the testimony of the Rule of 72 where what you would do is you would take -- and to get technical on a compounded daily

matter it's not 72, it's 69.3 divided by the interest rate. So you would take 69.3 divided by 4.59. That would give you the number of years that it takes for a specific number to double. And so when you look at this demonstrative, the issue that I take is looking at, let's say column 3 there, the interest being accrued is off of the $215,488. And so the proper use and the compounding daily would indicate that at 10 1/2 years, that number of $215,488 should have almost doubled. And it clearly hasn't by the $103,860.

THE COURT: Okay. So is it fair to say that you believe that this is just a simple interest calculation of how they got to the interest number as opposed to the compounding daily?

THE WITNESS: It's either that or they've made a calculation error in trying to determine what a present day value is versus a future day value.

THE COURT: Okay. All right. I believe those are the questions that I have. I'm going to allow either party to ask any questions that they might have based on the questions of the Court.

MR. BURLEY: Nothing further from us, Your Honor.

THE COURT: Mr. Morris?

MR. MORRIS: If I may just have one moment?

THE COURT: That's fine.

MR. MORRIS: I have nothing further, Your Honor.

THE COURT: All right. You may be excused. Thank you.

MR. YORK: He may be fully excused, right, Your Honor, Mr. Liles-Tims?

THE COURT: Mr. Liles-Tims, yeah. Mr. Morris, are you fine with that?

Yeah, he's excused.

MR. YORK: Thank you, Judge.

MR. MORRIS: Highland calls Jim Seery.

THE COURT: Okay. Mr. Seery.

And, again, my law clerk will go ahead and swear you in.

(The witness was sworn by the Court's law clerk.)

THE COURT: You may proceed.

JIM SEERY

The witness, having been duly sworn to tell the truth, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q. Good afternoon, Mr. Seery.

A. Good afternoon.

Q. Are you currently employed?

A. I am, yes.

Q. By whom?
A. Highland Capital.
Q. How long have you been with Highland?
A. Six years.
Q. Can you describe for the Court the circumstances under which you joined Highland Capital?
A. I was selected in early 2020 in January to be one of two independent directors. The two independent directors then selected the third independent director for Highland in bankruptcy. That was approved by the Bankruptcy Court. And then subsequently I became the CEO of Highland Capital, also approved by the Bankruptcy Court.
Q. Do you recall when you became approved to serve as the CEO of Highland?
A. The order was in July of 2020. It was nunc pro tunc until some time in March when I'd been the lead director and running it any way.
Q. And did there come a time when Highland proposed a plan of reorganization?
A. Yes.
Q. Did there come a time when it was confirmed?
A. Yes.
Q. Did there come a time when it was effective?
A. Yes.
Q. Did your role at Highland change after the

effective date?

A. After the effective date the CRO title dropped and I just became the CEO. In addition, because the plan has a claimant trust, I became the Claimant Trustee.

Q. All right. Can you just describe for the Court briefly --

A. Sorry, this chair is really tight here. I apologize. There we go. We're closer.

Q. Okay. Can you just describe briefly for the Court your professional background before you got to Highland?

A. Yes. I was a restructuring and finance lawyer for ten years before I went to the business side. The business side for me was investment bank and Lehman Brothers. I ran prop investments in distress, debt, and then ultimately ran the loan businesses globally there, restructuring and a number of other groups aligned with the loan business.

Q. And after leaving Lehman did you join Highland, or did you do anything between?

A. After leaving Lehman, we started our own -- actually went back to the law for a couple of years. Ran a restructuring -- co-ran a restructuring business out of New York for a large law firm. And then ultimately we had our own hedge fund, Long/Short Credit, small billion and a half dollar hedge fund which we ran for about six years.

Q. Okay. Let's cut to the chase here. In your

capacity as the CEO of Highland, are you generally familiar with Pat Daugherty?

A. Yes.

Q. And do you understand that he filed certain claims in the Highland bankruptcy case?

A. Yes.

Q. Can you describe your understanding of those claims at a high level?

A. There were multiple claims and they're extremely large, so you'll find them on your system, but you won't find them on the KCC cite because they're really big. They're consolidated in what's called Claim 205. That claim has been settled except for one piece. One piece was an unsecured claim for basically tax indemnity, for lack of a better term and interest of the petition date and that was $2.65 million, roughly.

Q. Okay. And prior to confirmation had a settlement in principle been reached with Mr. Daugherty?

A. Yes.

Q. Can you just describe for the Court the circumstances that led up to that point?

A. We were driving towards confirmation. Had reached -- we'd done mediation with a number of creditors. I don't believe Mr. Daugherty was part of that. But on the side there was separate negotiations with Mr. Daugherty. His

claim had been estimated by the Bankruptcy Court for voting purposes. And we had been negotiating and we reached agreement with him on a cash settlement, which included some cash at confirmation, a Class 8 claim, which I think was about 8.25 million. We expected to pay about 70 cents on Class 8. And then a Class 9 claim, which at the time I believe was about 2 million, 2.2 million, and that we expected to pay zero at confirmation.

Q. Did that settlement get consummated?

A. It did not.

Q. Why not?

A. At confirmation we had -- we had reached a settlement with UBS, as well. And UBS had a very large claim. And we announced that settlement and I think we were about to document it shortly. Shortly after confirmation we had not yet documented Mr. Daugherty's settlement. Shortly after confirmation we discovered a massive, what can only be described as a massive fraud involving Highland and UBS and the Highland principals. And we had to go to UBS and tell them, we can't cut your deal, or sign up your deal because we have now discovered this and we have to tell you about it before we consummate a deal. We very quick told them about it. And very quickly had to renegotiate that deal with UBS. And subsequently that got approved in a public notice. When Mr. Daugherty saw that, he then wanted to renegotiate his

deal. His argument was that seeing the fraud that happened, vis-a-vis UBS, gave heft -- more heft to some of his claims for fraud, as well.

Q. And in the ensuing months, did you personally negotiate aspects of what ultimately became the settlement with Mr. Daugherty?

A. Yes.

Q. And do you recall when that settlement was ultimately reached?

A. November 2021. It took -- it took months and months to come to a final agreement. And it didn't move that much from the original settlement we announced in court, but there was more consideration for him, more cash dollars. Bigger both, I believe a bigger Class A claim, but maybe not, but a bigger, I think another million dollars under Class 9. Which again at that time was not expected to get any distribution, but did have option value.

Q. Okay. Can you turn in your binder to Exhibit 5, please?

MR. YORK: Highland 5?

MR. MORRIS: Yes, sir.

A. I've got it.

Q. Is that the settlement agreement you just referred to?

A. Yes.

Q. And do you recall that the following March the Bankruptcy Court approved that settlement?

A. I believe it was beginning of March, yes.

Q. Yep. All right. Let's -- let's focus on the claims here. Are you aware that Mr. Daugherty has a breach of contract claim and a claim for specific performance relating to certain books and records?

A. Yes. Yes. So the breach of contract claim being the tax claim, if you will. And the books of records claim which I thought was a damage claim and a specific performance. But as of this morning, I guess it's a specific performance.

Q. Let's go to paragraph 8 and let's just deal with the books and records claim, if we can.

In the middle of paragraph 8 there's a sentence that says, "Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP system." Do you see that?

A. Yes, I do.

Q. Do you understand that that is the basis for Mr. Daugherty's books and records claims?

A. I don't understand that that sentence is the basis of Mr. Daugherty's claims. I understand that he's saying we may not have adhered to that sentence. But his complaint is entirely different from that, as your demonstrative showed

and anyone reading the complaint can see.

Q. Let's --

A. His counterclaim.

Q. -- let's just talk about HERA and ERA for a moment. As the CEO of Highland do you have an understanding of what HERA was?

A. Yes.

Q. What's your understanding of what HERA was?

A. So it was called Highland Employee Retention Assets and it was a vehicle that was set up after the 2008 financial crisis. Passive assets that Highland had were put into this vehicle to sit there and hopefully accrue value. And that would then ultimately go to certain Highland employees who had -- who became vested over time. So it was a delayed way to give them investment in the business and upside that would get paid out over time.

Q. All right. Just focusing on HERA, did HERA have any employees at any time, to the best of your knowledge?

A. No. No, it did not.

Q. Did HERA have any operations at any time, to the best of your knowledge?

A. No, it did not.

Q. Did HERA lease any of its own office space at any time, to the best of your knowledge?

A. No, it did not.

Q. Did HERA have its own server at any time, to the best of your knowledge?
A. No, it did not.
Q. Did HERA have its own email address at any time, to the best of your knowledge?
A. No, it did not.
Q. Let's go to ERA. Can you explain to the Court your understanding of what ERA is?
A. So HERA was a -- the vehicle was a limited liability company. Limited liability companies are designated by the interest in them or membership interests. And they are managed, unlike a corporation which is managed by a board of directors and officers, typically a limited liability company is managed by a managing member. ERA was the managing member of HERA. And that structure came into being in 2012, '13, that part of the structure.
Q. Did ERA have any employees of its own?
A. No.
Q. Did ERA have any operations of its own?
A. No.
Q. Did ERA lease any office space of its own?
A. No.
Q. Did ERA have its own server?
A. No.
Q. Did ERA have an email address?

A. No.
Q. Did ERA have any books and records?
A. Not really. Very -- almost nothing. It just didn't have really anything. It didn't have financials. It was disregarded. It didn't have tax returns, I'm sorry, because it was disregarded. So it really didn't have very much of anything.
Q. Going back to paragraph 8, you'll agree that Highland agreed in that paragraph to transfer its interest in HERA and ERA to Mr. Daugherty?
A. Yes. So this was a late add in those negotiations. And Mr. Daugherty wanted these entities transferred to him. They didn't have any value to Highland. They didn't have any assets. So we agreed to transfer them very carefully.
Q. Okay. Can you go to Exhibit 52, please?
A. I'm there.
Q. Okay. The second page there's a document entitled transfer agreement. Do you see that?
A. Yes.
Q. And is that your signature on the second page?
A. That is, yes.
Q. And did Mr. Daugherty sign it on the same day that you did?
A. Yes.
Q. And is this the document by which Highland

transferred its interest in ERA to Mr. Daugherty?

A. That's right. This is the ERA as opposed to the HERA membership transfer agreement.

Q. And I see interest is a defined term in this document; is that right?

A. That's correct.

Q. And what does interest mean for purposes of this document?

A. It's the membership interest in ERA that would be standard when transferring the membership interest.

Q. Let's go to the next document. Is there a second transfer agreement in Exhibit 52?

A. Yes. This is the one related to HERA.

Q. Okay. And what is being transferred pursuant to this agreement?

A. Once again this is a transfer of the membership interest of HERA to Daugherty. HERA's a little bit different because of the original structure and the way employees -- I mentioned they had to vest. It had two different kinds of members interest. I think they call them common units and Series A preferred units, which is here. And so those are the membership interests that are transferred to Daugherty pursuant to this agreement.

Q. Okay. Let's go back to the settlement agreement, Exhibit 5, paragraph 8, page 10. The next --

A. Sorry. Page 10, yes.

Q. Yeah. Going back -- going back to the middle again where it says, "Such transfer will include the HERA and ERA books and records (spreadsheet) maintained on HCMLP's system." Are you familiar with that particular sentence?

A. Yes.

Q. Was that sentence the subject of negotiations?

A. Yes.

Q. Do you know who conducted those negotiations?

A. I did.

Q. And who did you negotiate with?

A. Pat Daugherty.

Q. And what do you recall about those negotiations?

A. After this provision was added, which related to the HERA and ERA interests, Daugherty said, I also want the HERA and ERA books and records. And we want it to be very clear that we didn't want any involvement with HERA and ERA and anything he thought he might be doing with HERA and ERA. So I went to my people and said, What do we have? My people meaning Dave Klos, who you saw, my general counsel. We searched our records. Dave told me, we don't have anything. We just have a spreadsheet. We have corporate books and records, general counsel told me, resolutions. There's no giant set of books and records and they're all in different places. So we'll have to go find them.

So I went back to Daugherty and said, we don't have much. We'll give you what we have of the HERA and ERA books and records. But you should know, it's going to be very small. We're just taking them off our system. We're not going looking for anything. And we're not going to incur any costs or expenses related to this.

Q. Is that concept of not incurring costs, is that reflected in the agreement in this paragraph 8?

A. Yes.

Q. And where is that?

A. Such transfer will be without any liability or material cost to HCMLP, or its affiliates, or the other HCMLP released parties, including any liability with respect to any assets that HERA and ERA ever actually or allegedly owned, possessed, controlled, and that were actually allegedly transferred, conveyed, sold, written off, or otherwise disposed of in any such case or disposition.

Q. And what was -- what was your intent in including that provision?

A. The intent of including that provision and a couple of others and throughout, you have the transfer. And then after that for the remaining page, onto the next page, are a bunch of limitations. When we -- when Daugherty asked for a HERA and ERA transfer, we said, we'll assign you these entities, because they're -- have the sleeves off our vest,

really. Well, we don't want anything to do with whatever you're going to do with them. We don't want any liability and we don't want any costs. So we'll -- then he wanted the books and records. We said, we'll give you the books and records. But, again, it's a limited subset of things. We're going to provide them to you. But we don't want anything else to do with them. We don't want this to be at any cost to us.

Q. Okay. Back up to the sentence that begins, Such transfer will include. Do you have any recollection as to why the parenthetical spreadsheet is included there?

A. Yes.

Q. Why was that term included in a parenthetical?

A. Because when I called Dave Klos and said, what do we have? He told me that we had -- they weren't running -- the financials for HERA and ERA were not run on Highland's accounting system, they were run on QuickBooks. Highland used our -- and so he told me all we have is QuickBooks, so we'll give you the output from QuickBooks. I believed that just to be a spreadsheet. I thought we were actually going to have to print it out and deliver it to him. It turns out we could deliver that electronically.

Q. Okay.

A. And we can give him the full output of the QuickBooks for HERA and ERA.

Q. After -- after the Court approved the settlement, did Highland take steps to implement it, the agreement?

A. Yes.

Q. What steps did it take?

A. There's a number of releases contained in here. There was obviously the payments that we needed to make under the settlement agreement. We also began assembling these books and records of HERA and ERA for Daugherty. And we worked on that for the next, I think about month and a half.

Q. And the membership interest in HERA and ERA were transferred?

A. They were almost done. That was the exhibit we were on. I thought those were done almost right a way. Because that's pretty straightforward and easy to do. It's just a transfer agreement of the LLC membership interest.

Q. Was there any litigation that needed to be addressed or resolved pursuant to the settlement agreement?

A. Yeah. I thought -- my apologies, I thought I mentioned it. There was a number of litigations. I think Daugherty wanted some partial vacatur of judgments that were against him in Texas court. I think they were dismissed. They, but not us were dismissing a Delaware action. I don't recall if we had one to dismiss, as well, because there were -- there were several actions and there might have been counterclaims. So we addressed all those things. So it was

litigation issues, the payments, and then the transfer of the membership interest and then the follow up with the books and records of HERA and ERA.

Q. Other than the HERA and ERA books and records, is there any aspect of the settlement agreement that Mr. Daugherty has ever contended Highland hasn't complied with, to the best of your knowledge?

A. No. I think it's worked out extremely well for him.

Q. Okay. Let's go -- and after the settlement approved, did Highland make efforts to produce the HERA and ERA books and records that were maintained on Highland's system?

A. Yes.

Q. Can we go to Exhibit 2, please? Starting with my email at the bottom of the first page that continues on to the top of the second page. Can you just let me know if you're familiar with that document?

A. Yes.

Q. And what -- what is that document?

A. This is the transmit. You've got an internal email here just showing everybody what you're doing to, your counsel. And we're delivering these through counsel, meaning the books and records that we've assembled for HERA and ERA. And you were delivering it to Daugherty's counsel. And this

is the -- the first letter is you basically just showing us, you know, how we're going to get this done and making sure that you're saying it correctly. And you gave us a copy of this letter, as your practice, to make sure that I approved it.

Q. And do you recall that Highland provided a link with certain HERA and ERA books and records?

A. Yes.

Q. And do you recall that Highland also provided further emails with zip files that contained additional tax related documents and other business records?

A. Yeah. These were all of the corporate books and records. So all of the normal corporate formations, resolutions, director consents, whatever we had in the corporate files that we could assemble.

Q. Uh-huh.

A. And then all of the financials, so the complete output from Oracle -- not Oracle, I'm sorry, from QuickBooks and any of the historical tax filings of HERA, again, ERA was disregarded. And then any other corporate documents that we had assembled at that time.

Q. Okay. And then in the last substantive paragraph I wrote, "We believe this production completes HCMLP's obligations under paragraph 8 of the settlement agreement, although Highland is making a final review to be certain and

will produce any additional records it may identify." Have I read that correctly?

A. You have, yes.

Q. Did you authorize me to send that -- to include that in this email?

A. I did. And it's true. We did a lot of work to get these documents delivered. These were all of the books and records that we have for HERA and ERA, all of the financial records of HERA and ERA. Historical tax returns, as I said. And we thought we had complied with everything in -- all the requirements of the settlement agreement at this time.

Q. And to the best of your recollection, did Highland ever agree at any time after May 5th, 2022 that it did not comply with paragraph 8 of the settlement agreement?

A. No, we did not.

Q. Did Highland undertake to do a final review to be certain that there were no further HERA and ERA books and records?

A. I believe that was just -- we didn't do a final additional review. I believe Dave wanted to just -- Dave Klos wanted to just double check that he had one other thing. And if he determined that that was already been produced, so that's fine. And then on the next page you do see what was actually transmitted. This was the first of the transmittals. So this is 38.9 megs, a lot of data. And then

there were two other files which bring the total from this delivery over 50 megs.

Q. Okay.

A. Thousands of pages.

Q. Did there come a time when Highland produced more information to Mr. Daugherty?

A. There did. Mr. Daugherty is nothing, if not persistent. And continued to harangue me for backup information related to the books and records and the financials that we provided.

Q. And did there come a time when you personally wrote to Mr. Daugherty to address that issue?

A. Well, we actually talked to him a couple of times. I think that's some of the tape recordings he has with me and Mr. Klos. We did not know we were being taped. And we said, okay, we'll take a look. We'll see what we can find. And really put David Klos on the job to go find as many backup documents as he could find related to the QuickBook records of HERA.

Q. Can you go to Exhibit 3, please?

A. Yes.

Q. Is that an email that you sent to Mr. Daugherty in October 2022 on the topic of books and records?

A. Yes.

Q. And did you describe for him the documents that

were being produced?

A. Yes. As you can see, this is a detailed email and it's -- it was thoughtfully put together because at this point I'd already been dragged into Mr. Daugherty's stalking dispute with Mr. Ellington. And I really wanted nothing more to do with any of these folks. So we put together a comprehensive filing. We resent him all of the corporate docs as you see there; the HERA governing docs, the amendments, the assignments, correspondence. And really wanted to spell it out so I was clear that somebody could see what we gave. We gave all the HERA docs. We resent the QuickBook docs. And then we actually went out and did a lot of work to get backup documents. And this was, I believe, over 100 megs of data.

Q. And did you tell Mr. Daugherty in this email, "Well, we believe the information already provided satisfied HCMLP's undertakings under the settlement agreement, you were nevertheless going to provide additional information that was requested"?

A. Yes. This was really responding to his request for backup. We thought when we did the prior delivery in May that we were done. And this was a follow up to say, okay, we'll redeliver all of those documents to you. And we did more work finding backup documents that you said you were interested in. And we found really the vast majority of

anything that could have been related to the financials that we'd previously delivered.

Q. And can you read for the Court what you wrote there in the last paragraph beginning, upon transmission?

A. Oh, you mean the second to the last.

Q. Yeah. Last substantive paragraph.

A. Upon transmission of the information described above, HCMLP will have satisfied all of its obligations under the settlement agreement. And our involvement with HERA/ERA (your entities) will be complete. Of course, to the extent one-off questions come up, you're always welcome to contact me. Best of luck with these entities.

Q. Okay. And was there any further communications in the weeks that followed concerning your email and the documents that were produced by Highland?

A. I thought not. But then in preparing for this hearing, I noticed that there were a couple of back and forth. And really they related to telling Mr. Daugherty, look, we want to take down this large share file site that we put up for you. I want to make sure you have gotten these documents and downloaded everything that you think you need. And so there's a couple of emails back and forth on that. And I think you've got them in an exhibit somewhere.

Q. It's 51.

A. Okay.

Q. Can we turn to Exhibit 51?

Is this the back and forth that you just referred to that followed your delivery of the October 19th email to Mr. Daugherty on the topic of books and records?

A. Yes. So it starts -- and I'm not sure of the order of these. I assume it starts with the most recent to the lease. And it starts with our outside consultants at the time, DSI, making sure that Daugherty and his counsel had full access to the share file that we previously posted to let them know that if they needed help, DSI was available to do that. And then you'll see in the prior emails it looks like maybe Daugherty had had trouble getting to it. So we wanted -- we told him that we were going to take the site down, so we wanted to make sure that he got everything. And then the subsequent emails show that it's really just -- all of these emails were put to follow up with the original email, delivery email that I sent on October 19th.

Q. To the best of your recollection, in the weeks and months that followed did Mr. Daugherty complain about the scope of the documents that Highland had provided in response to Section 8?

A. No, he did not.

Q. And in the weeks and months that followed, did Mr. Daugherty dispute Highland's contention that it had complied with the books and records provision of Section 8?

A. No, he did not. I don't even think I spoke to him.
Q. Do you recall if Mr. Daugherty ever raised the issue again?
A. I don't believe until we got the counterclaim, although his counsel, I think, raised it with you.
Q. So go to Exhibit 53, please.
Do you recall that in late January 2024, approximately 15 or 16 months after your October 2022 email, Mr. York wrote to me and asked for additional documents concerning HERA?
A. I see that, yes.
Q. And is this -- did you see this letter on or about the time that it was sent?
A. Yes.
Q. Do you recall if we responded?
A. I think we did not respond, at least not initially. We were quite sure we had already satisfied all of our obligations. We really wanted nothing to do with what he was doing with this entity, or any litigations he might be trying to bring. And the letter actually had some very odd provisions in it, so I know we discussed them and took a little bit of umbrage at them. But we didn't do anything.
Q. Okay. If you can go to Exhibit 54. Do you see at the bottom of the second page you'll see a copy of Mr. York's email that attached the letter we just looked at and then he followed up on March 1st; do you see that?

A. Yes.
Q. And do you see that he says that he was attaching a copy of a complaint that was filed?
A. Yes.
Q. Did you have any knowledge that a complaint was being filed in the Northern District of Texas?
A. I knew Mr. Daugherty intended a lawsuit against someone, I assumed it was Dondero and Okada, because that's what he always complained about.
Q. Uh-huh.
A. But I did not know that this was being filed at this time. And I certainly had not seen it before it was filed.
Q. And if you go to the prior page, do you recall that I responded after the weekend?
A. Yes. I think we went back to Mr. York and told him we previously gave you everything we're required to give you under your agreement. And that's that.
Q. Okay. Do you recall that Mr. Daugherty pressed one more time for more documents and information concerning or related to HERA?
A. Yes. I believe it was one of his other counsel, the counsel who brought the action in the Northern District of Texas.
Q. Can we go to Exhibit 4, please?

Do you recall that on May 10th another lawyer for Mr. Daugherty, Mr. Bobo, wrote to me on the topic of HERA and ERA documents?

A. Yeah. To be fair, he's a lawyer for HERA, which Daugherty now owns all of the membership interest in because of our transfer.

Q. Okay. I appreciate that. Do you see at the bottom of the second page Mr. Bobo write after quoting -- after purporting to quote from paragraph 8 of the settlement, "This language is neither ambiguous nor confusing and includes all books and records that Highland has related to HERA without caveats or conclusions." Do you see that?

A. Yes.

Q. Did you understand at that time that Mr. Bobo on behalf of HERA was seeking documents that Highland had that were related to HERA?

A. Yeah. This is -- this is a follow up of what Mr. Daugherty sought for backup, which weren't books and records and HERA and ERA, but things that related to their financials. And it's evolved since then to be this type of language and the others that we see in the counterclaim and in the various pleadings.

Q. If we went back and looked at the settlement agreement, did Highland have any obligation to give HERA anything at any time?

A. No.
Q. Okay. Do you see that at the end of Mr. Bobo's email he threatened to sue Highland if Highland didn't comply?
A. I recall it. I'd have to find it.
Q. If you look at the last sentence he writes, "Rest assured, your continued refusal to comply with the settlement agreement will result in our seeking enforcement of the same with the Bankruptcy Court."
A. I see that, yes.
Q. Okay. And did you authorize me to respond to Mr. Bobo?
A. Yes, I did.
Q. And did I do so on the prior page?
A. You did.
Q. And did we again tell Mr. Bobo that Highland had complied with all of its obligations?
A. Reiterated that. Explained to him why what he was asking for wasn't part of the contract. And told him if you don't think we're living up to our agreement, you should go to the Bankruptcy Court.
Q. Okay. Did Mr. Daugherty ever come to the Bankruptcy Court before filing his counterclaim in October 2025?
A. Not with respect to this, no.

Q. Okay.

MR. MORRIS: Your Honor, I just have one or two more questions on this topic and then just a couple of more after that.

May I just show him the demonstrative that I used this morning?

THE COURT: Do you mean the slides, or do you mean --

MR. MORRIS: That I used in the opening.

THE COURT: Okay.

MR. MORRIS: If you can just go to, I'm looking, Your Honor, at slide 9.

Do you have that, Your Honor?

THE COURT: Yes.

Q. Mr. Seery, does the information on slide 9 accurately describe, to the best of your knowledge, the information that was provided to Mr. Daugherty pursuant to paragraph 8 on May 5th and October 19th respectively?

A. Yes. And this -- these are reflected to some degree, certainly on the October 19th, but the May 5th there's less of an explanation, but that's the 40 megs that then you then added on to that becomes over 50 megs of data. And that's the information that was given on May 5th, the HERA/ERA books and records, HERA/ERA historical financials, HERA/ERA historical taxes, full satisfaction. Again, 50 megs

of a fair amount of data. And then, as I explained and had in my letter that we just looked at, in October we re-delivered those corporate books and records. We went and found backup for the QuickBooks data that we had already given him. We gave him historical data on Restoration Capital. We gave him historical data on Smith Barney. Why does it end in 2012? Because after that HERA didn't have any more assets. Those assets were swept to Highland. That's actually the basis of Daugherty's original claim that we settled. And we gave him the tracking sheets for all of those assets up to 12. And reiterated that we satisfied our obligations.

Q. Okay. Let's just finish up with a few questions on the reserve claim. Are you aware that Highland is looking to disallow or estimate Mr. Daugherty's reserve claim?

A. Yes.

Q. Do you know why it's called a reserve claim?

A. It's called a reserve claim for two reasons. Number one, it's the thing we reserved and didn't decide. But number two, we fully reserved on it. So his claim was filed in the amount of -- full amount on the comp statement, 1.47, I believe, million dollars. And then Daugherty included interest on the addendum to his proof of claim of 1.1. So that takes it up to 2.65. And the 2.65 is what we've reserved and it's been fully reserved since, I think

2023. It's in one of the tolling agreements that's part of the Court docket.

Q. Are you aware that one of the reasons Highland is asking the Court to disallow the claim is based on Highland' contention that the claim has been satisfied to the extent there ever was a claim?

A. Yeah. I think there's three basis that we have to disallow the claim. Number one, there is no contract for indemnity, guaranty, anything else. And I think we've gone through that. That's legal argument. Number two, importantly and sometimes gets overlooked, he received $1.3 million in 2009 from the IRS. And he's had that money for 17 years.

Q. Okay.

A. And then there's the arguments we've talked about before specifically related to his employment agreement, which we think is really the end of the story.

Q. Well, let's look at the employment agreement. If you can look at Exhibit 11. And go to paragraph 3.1(a). Does Highland rely on that paragraph in its first cause of action to disallow Mr. Daugherty's claim in its entirety?

A. Yes.

Q. Can you describe for the Court your understanding of that paragraph and what Highland's position is with regard to it?

A. Yes. Mr. Daugherty claims that the tax refund he got from the IRS was a bonus from Highland, or a payment in lieu of bonus. He would have gotten that tax refund irrespective of anything on a comp statement because he got it because he was a partner in Highland. He had an employment agreement, even though he was an at-will employee. And it's clear in here that he was subject to the terms and abiding by the terms of the employment agreement. If it's a bonus, it's very clear that typically any bonus is going to be paid in installments. It's going to be multiple installments, unless otherwise agreed. He argues that that somehow modifies other parts of the sentence and makes very little -- parts of the paragraph when it's in one sentence. It's very specific and Mr. Daugherty knew this. And every Highland employee has known this and this started as soon as I got into the bankruptcy and was dealing with employees with their deferred bonuses that you must be employed at the time that the bonus is going to be paid. If you are not, it has not been earned and you don't get it. And that's crystal clear in the agreement.

Q. And can you just point the Court to where in the agreement that's crystal clear?

A. It's the second to the last sentence. I'm sorry, third to the last. The executive must be employed on the payment date or dates, parenthetical s, in order to be

eligible for the bonus.

Q. Okay. Is there another provision in the employment agreement that Highland relies upon in asking the Court to disallow Mr. Daugherty's claim?

A. Yes. Section 4.5.

Q. And what about that section is Highland relying upon?

A. Mr. Daugherty had an option when he left, as every employee who had a similar provision had. And there were a few people who had contracts. You can either sign the separation agreement and deliver it that's next to this agreement, or -- and then you release Highland and you get your six weeks of severance, or you don't sign it and you don't release Highland. So by signing it, you'd only get six weeks of severance and you'd only get -- for his tenure, because he had enough years. And you would -- but you'd release Highland.

And we've seen a letter earlier, I believe it was in the demonstrative. He attempted to negotiate a different deal and ultimately never signed and delivered Exhibit A.

Q. And what's the consequence of not delivering a separation agreement and release?

A. Oh, it's very clear. In the last sentence it says, In the event the executive declines to sign the separation agreement and release, he/she shall not be entitled to any

severance and the company will have no further liability or obligation to the executive under this agreement or in connection with his/her employment or termination.

Q. And do you understand that Mr. Daugherty resigned from Highland in late September 2011?

A. It was 2011, fall, I forget the exact date. But I think you're right around the time.

Q. Can you go to Exhibit 40, please?

Are you aware based on your review of Highland's records that Mr. Daugherty and Mr. Dondero attempted to negotiate a resolution of their disputes after Mr. Daugherty resigned?

A. Yeah. I think it didn't -- there's a long litany of evidence of this, some of which is now in the record of the back and forth. And Daugherty was looking for a different deal. Dondero was looking for a different deal. And they never were able to reach agreement on what that would be.

Q. Okay. But are you aware that on or around October 27th Mr. Dondero sent some separation agreements to Mr. Daugherty?

A. Yes.

Q. And if you turn to Exhibit 41, is it your understanding that that is one of the documents that was attached?

A. That is one of the documents. It was a package of documents, three separate, I believe. And they provided a lot of value to Mr. Daugherty, but they also provided a lot of release to Highland and Mr. Dondero. And a lot of the value, some of it would be paid by Highland, but a bunch of the value would be paid by companies that Highland controlled.

Q. If you take a look at the second page of this letter agreement, directing your attention to Section 3(c)(ii). Do you have an understanding of what that is?

A. Yeah. This is part of paragraph 3. It's rather complicated, complex. It is the separation -- what they call the special separation compensation. And basically (c) is a tax indemnity related to certain tax years. And then (c)(ii) is a broad indemnity that would have covered anything related to -- to this audit. And you've got (c)(iii), as well. Now they also require him, if he -- if Highland provided that value and then subsequently IRS sent him more money, he had to send it back to Highland. So it was a backstop for potential tax liability.

Q. And did Highland agree to pay penalties and interest associated with any notice of tax due that was issued by the IRS with respect to the income being allocated to Mr. Daugherty?

A. It would have if this agreement were put in place.

And this agreement was part of a, as I said, I believe it was a three-part package. So we had to agree to all parts.

Q. Okay. And your understanding is this was never signed; is that fair?

A. This was never signed, no.

Q. Okay. Last couple of questions. Are you aware that under Section 502 the Court shall estimate any contingent claim if the failure to do so will result in the undue delay of the administration of the bankruptcy case?

A. I am. I was a bankruptcy lawyer for ten years.

Q. Does Highland contend that the failure to estimate Mr. Daugherty's claim will unduly delay the administration of the Highland bankruptcy case?

A. Yes.

Q. And why does -- why does Highland contend that?

A. Well, I think you heard Mr. Daugherty's expert say there's no expectation of when this is going to end. What I think's really important to understand in context is this audit took seven years. There were hundreds, and I mean hundreds of IDRs, individual document requests from the IRS that were produced. Ultimately they completed their audit and issued their findings in the end of 2017. We're now nine full years later and we don't have a conclusion. Why? Because the tax matters partner is entitled to appeal. And they have continued to appeal. And it looks like they're

going to continue to appeal and they haven't been able to resolve it. And there's no end in sight in Mr. Daugherty's expert's view. And I tend to concur with that.

The case has to resolve. This case is six years old. More than six, six and a half. And it has a finite limit to the life of the claim in trust. The claim in trust had a three-year term. It had two potential discretionary one-year extensions. And as a liquidating trust, it is required not to be in continuing business, but has to have an end date. And without modifying the plan and without taking substantial tax risks related to the treatment of the trust, this thing can't be extended.

Q. And, I'm sorry, can you explain to the -- let me ask -- withdrawn.

If dissolution does not begin on or before August 11, 2026, is it your understanding that there could be adverse consequences for the claim in trust and for Highland?

A. There's a risk for sure. So --

Q. Can you just explain to the Court your understanding of what that risk is?

A. Again, a liquidating trust is not a partnership. It's not a limited liability company. It's not a corporation. And it exists to liquidate and make distributions to creditors. To the extent that it's looked at as a continuing business by the IRS, there could be a risk

of adverse tax consequences. But importantly, there is no mechanism to extend the trust. There is no mechanism to go beyond that August 11, 2026 date.

Q. Is it your understanding that the August 11, 2026 date was a date that the Official Committee of Unsecured Creditors insisted upon as one of the conditions to agreeing to Highland's plan in the form of claim and trust agreement?

A. It was a key -- it was a key provisions. There's a number of key provisions. They didn't want it to go five years. They wanted it to be done at three. Unfortunately we have not been able to do that and that's why the two extensions were built in to the max five years that we believe we could get.

MR. MORRIS: I have no further questions, Your Honor.

THE COURT: All right. We've been going at this for about two hours. We're going to go ahead and take a 10-minute recess.

(Brief recess ensued.)

THE COURT: You may proceed, Mr. York.

MR. YORK: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. YORK:

Q. Good afternoon, Mr. Seery.

I just want to make sure we get one thing straight. You

said you started working at Highland in 2020; is that correct?

A. Yes.

Q. Okay. And so you weren't around at Highland back at the time Mr. Daugherty was employed there, right?

A. No.

Q. Or even for about an eight or nine-year period after he resigned, right?

A. Yes.

Q. Is that correct?

A. That's correct.

Q. Okay. And so you weren't involved in the preparation of Mr. Daugherty's compensation in a benefit statement that Highland issued to him in February of 2009, correct?

A. That's correct.

Q. And you weren't -- you haven't talked to anyone at Highland that was involved in the preparation of that compensation and benefit statement; isn't that correct?

A. I've talked to dozens of people who were at Highland who worked on it, but I have not talked to them about the compensation statement.

Q. Right. And you also were not involved in Mr. Daugherty's -- discussions relating to Mr. Daugherty's resignation and the proposed separation and release

agreement, correct?

A. That's correct.

Q. Nor have you talked to anyone that was a current or former employee of Highland that was involved in any discussions with Mr. Daugherty about that separation and release agreement, correct?

A. That's correct.

Q. All right. And, in fact, if we go to Highland Exhibit 11, let's take a look. That form of separation and release agreement that you spoke about earlier, just to be clear, it is four pages long, isn't it?

A. I'm sorry.

Q. It's four pages long.

A. Exhibit --

Q. 11, Highland Exhibit 11.

A. -- 11. Exhibit A?

Q. Yes, Exhibit A. The form of the separation and release agreement that is listed -- that was attached to Mr. Daugherty's employment agreement. That form of separation and release agreement was only four pages long, correct?

A. It's, yeah, four single space pages, yes.

Q. All right. And if we go then to what is Highland's Exhibit 41, let's just compare real quick. The separation -- the draft of the separation and release agreement that was

sent to Mr. Daugherty is a total of, based on the header at the top, 18 pages; isn't that right?

A. Yeah. I think it's 15 -- it goes onto 15 with the signature page and then has a couple of appendices.

Q. All right. One of the things that's in the -- the draft of the separation and release agreement that was sent to Mr. Daugherty is a clause 7 called, use of confidential information. Do you see that?

A. You mean not the one sent to him on his employment agreement, you mean this one?

Q. Correct. Exhibit 41, the version that was given to him around the time that he issued his resignation notice, okay. Paragraph 7 in there is a use of confidential information provision, correct?

A. I see it, yes.

Q. And that clause isn't found anywhere in Exhibit 11, the form of separation and release agreement that was attached to Mr. Daugherty's employment agreement, correct?

A. I don't know.

Q. Go ahead and take a look at Exhibit 11 real quick.

A. You mean Exhibit A.

Q. Exhibit A to Exhibit 11, correct.

A. I don't know what the other one says, but paragraph 5 is a confidentiality provision.

Q. Confidentiality provision? Okay.

What about a --

A. Paragraph 6, I'm sorry. Paragraph 6 is a nondisparagement disruption --

Q. A nondisparagement provision. But does it say confidentiality?

A. Paragraph 5 seems to be confidentiality, because it says, confidentiality requirement.

Q. All right. What about -- well, that's with respect to the agreement, correct?

A. They're definitely different agreements.

Q. Definitely different agreements.

A. Yeah, they're --

Q. Okay. Fair enough.

A. One's next to the employment agreement that he had.

Q. All right.

A. And the other one was part of the negotiations that he was having with Dondero when he left.

Q. All right. So let's then move on to something else that you testified about with respect to Section 4.5 in Mr. Daugherty's employment agreement.

So, again, let's stick with paragraph -- I'm sorry, Exhibit 11, Highland's Exhibit 11. Go to Section 4.5.

A. Yes.

Q. And do you agree with me that on Section 4.5 in the first sentence it states that in the event that the

executive, and the executive there refers to Mr. Daugherty; is that correct?

A. That's correct.

Q. Terminates his or her continuous status as an executive hereunder and within one year thereafter the executive is not employed by a competing business, the company shall have no further liability or obligation to the executive under this agreement, or in connection with his or her employment hereunder except for -- and there are a number of exception clauses there; is that right?

A. There are, yes.

Q. One of which is clause 3, any amounts or rights to which the executive is entitled under any other written agreements with the company?

A. That's correct.

Q. Okay. And, in fact, the part at the bottom of Section 4.5 that you were discussing with Mr. Morris earlier, that last sentence says that if the -- in the event that the executive does not sign the form of separation agreement and release that's attached to his employment agreement, he's not entitled to any severance; isn't that right?

A. It says well more than that.

Q. In the last sentence of that paragraph? It says he'd not be entitled to any severance and the company will have no further liability or obligation to the executive

under this agreement, correct?

A. Or in connection with his or her employment or termination.

Q. And you don't think that relates back to the severance provision right above it, the severance sentence right above it?

A. I read that to roll over that provision, yes. That if you don't sign the separation agreement, you don't get anything.

Q. Do you agree that Mr. Daugherty had a written agreement in terms of his compensation and benefit statement with Highland?

A. No, I do not agree.

Q. You disagree with that?

A. That's not an agreement, no.

Q. It's not an agreement?

A. No.

Q. Okay. You mentioned earlier that Mr. -- or that Highland had fully satisfied its obligations under the compensation and benefits statement. And how is that?

A. To the extent -- we believe it's not an agreement because it's indefinite. It's vague. And it's missing essential terms to form an agreement. To the extent that someone, meaning the Court, determines that there is an agreement, Highland will satisfy it.

Q. How so?

A. Highland passed through more than $4 million of losses to Mr. Daugherty for 2008 tax year as a partner at Highland. He used those losses on the K-1 that he got. He actually filed it on the draft, but the final K-1 is the same. He actually got more than originally contemplated. He used those losses -- those losses that Highland had on his tax return to generate refunds. Those refunds gave him refunds of taxes previously paid that were distributions that Highland made to him, which is why Highland could calculate how much he would get back. And those were tax distributions that he'd gotten as a partner in prior tax years.

Q. All right. So let's break that down for a second. In terms of the allocation to Mr. Daugherty from Highland's overall partnership losses, on Highland's partnership tax return that was done in 2009, correct?

A. You get your -- your taxes are done on a calendar year.

Q. Right.

A. And the losses were generated in 2008.

Q. And reported in 2009.

A. The losses are generated in 2008. Under the partnership agreement Mr. Daugherty was entitled to a percentage or an allocation of profits or losses. Those losses for 2008 are reflected in his K-1. That K-1 is

delivered in 2009 for the 2008 tax year.

Q. Okay. So the K-1 was delivered in 2009, which allowed Mr. Daugherty then to file the tax return which is, to simplify things, allowed him to receive, as you put it, a refund on his tax return for the 2008 year?

A. Not as I put it. He stipulated in the joint pre-trial order.

Q. Yeah. So what that -- just to be clear, though, all of that happened while Mr. Daugherty was still employed at Highland, right?

A. It all did happen while he was employed. But it would not have made a difference because it was under the partnership agreement. If he resigned on January 1, 2009, he would have gotten the same allocation of profits and losses.

MR. YORK: Ms. DeBerg, would you pull up Daugherty Exhibit 14 for me?

Q. The tax refund was listed on Mr. Daugherty's compensation and benefit statement that year as part of his earnings and awards, correct?

A. Yes. It is listed there, yes.

Q. And what you've characterized as a bonus, correct? You've talked about it as a bonus in this case. Mr. Morris has referred to it as a bonus, right?

A. Wrong. Mr. Daugherty in your pleadings characterized it as a bonus. We've said, fine, if you want

to call it a bonus, then this provision applies. I don't believe it's actually a bonus. When you have a bonus, it usually says it's a bonus. And if you could find bonus on this piece of paper, then I'll pay you a quarter.

Q. Find the word bonus on here?

A. Yeah.

Q. Actually it's right below that loan forgiven in 2009 as part of bonus.

A. There you go. You got a quarter.

MALE SPEAKER: At a boy.

THE COURT: I was going to say something too, but --

MALE SPEAKER: You can't play. You can't play.

THE WITNESS: I owe Mr. York a quarter. Not in that section, but it does show up on the page, I guess.

Q. But you'd agree with me that in terms of the mechanics of the filing of the tax return by the partnership and the allocation of Mr. Daugherty, all of that happened while Mr. Daugherty was still employed at Highland, correct?

A. It did. But, again, his allocation of profits and losses when he quit, he was a partner. He would have had a tax return for 2011. He wouldn't have gotten a K-1 for 2011.

Q. That's not my question.

A. Even though -- you just asked -- it doesn't matter

if he was employed. But, yes, he was employed.

Q. You've argued on the stand as part of your testimony that under Article or Section 3.1 of his employment agreement he had to be employed at the time that the bonus was to be paid, right?

A. I've read that section, correct, yes.

Q. And he received this compensation here under his compensation benefit statement while he was still employed at Highland, correct?

A. He did get the refund while he was still employed at Highland, yes.

Q. Subject, of course, to the fact that it could be audited by the IRS, right?

A. Always.

Q. All right. And by the way, was it Mr. Daugherty's idea to implement this compensation through this tax refund?

A. I don't know if it was his idea or somebody else. I have no idea whose idea it was.

Q. Right. Because you weren't at Highland at the time, right?

A. Nope. No, I was not.

Q. You also testified that Mr. Daugherty had the money for 17 years. Do you actually have any personal knowledge as to what happened to the refund that Mr. Daugherty received on his 2008 return?

A. Yes.
Q. What happened to it?
A. He received the money.
Q. Yeah. And I'm asking after that, what happened to it? Do you have any personal knowledge as to what happened to it after that?
A. What he did with the specific money?
Q. Yes.
A. I mean, money's fungible. I have no idea what he does with his money.
Q. All right. Let's turn to the estimation issue for a second. We've talked a lot about the fact that Highland believes that this can be -- this claim that Mr. Daugherty has can be estimated. And I believe in your direct examination, excuse me, you testified that the IRS refund claim came up in the context of valuing Mr. Daugherty's overall claim for voting purposes in this bankruptcy case in March of 2020. Do you recall that?
A. I don't believe that's what I testified to. It may have, but I don't recall specific discussion around this part of his claim in respect of the estimation in the winter -- end of the year of 2020. I just don't recall.
Q. Do you recall participating, maybe not actively, but at least listening to the hearing in front of Judge Jernigan regarding how Mr. Daugherty's claims overall should

be valued for purposes of voting?

A. I'm not quite sure I understand the question. But there's a Webex, but did I -- because it was during COVID, did I -- did I participate? Yes. I definitely was involved. I don't remember if I testified at that hearing or not.

Q. And Mr. Morris was present and participated in that hearing?

A. I'm sure he was.

Q. All right. Do you recall that Mr. Morris informed the Court that Mr. Daugherty's IRS reserved claim was something that could not be calculated?

A. I don't have a specific recollection of what happened in his estimation for voting purposes.

Q. All right.

MR. YORK: Ms. DeBerg, would you put up Daugherty Exhibit 36, please? And if you'd go to page 81, please?

Q. So we're looking here at page 81 of Exhibit 36. This is the transcript from that hearing, Mr. Seery. Mr. Morris starts talking in closing arguments there at line 8. Do you see that?

A. Yes.

Q. And at line 12 he says, We don't believe it would be just to give him anything on account of a tax claim that is completely contingent, unliquidated and where the debtor

admittedly owes absolutely nothing to Mr. Daugherty today.

Did I read that correctly?

A. I believe so, yes.

Q. All right. Did you know then that the Court, Judge Jernigan also said that it wasn't something -- this portion of Mr. Daugherty's claim could not be calculated or estimated for purposes of voting?

A. No. They don't.

MR. YORK: Let's go to page 85 then, Ms. DeBerg.

Q. Starting at line 12. They're discussing the math with respect to Mr. Daugherty's claim. And about line 13 -- or excuse me, line 12 there it says, So what else in that chart gives me pause? She says, The tax refund, the 2008 tax refund component. She says what the number is. And then on line 15, It's very clear that at this point this is at best contingent. And again down the road we may get to a point where it's not contingent. The IRS has finished doing what it's going to do and we may get to a point where we think that a result is appropriate. I don't know. And then -- so what she does is if you go down further at the beginning at line 24 she begins subtracting amounts, which includes the 1.475 million and the estimated interest associated with the IRS tax claim.

Do you see that?

A. I do. But I feel like the bonus thing, you missed the whole part of that estimation.

MR. YORK: And then go to the next page, please, Ms. DeBerg.

A. She just said that we may get to a point where we have to do estimation. I feel like you should all pay me that quarter back.

Q. And so she says there that she's thinking about deducting and she ends up deducting that out of it at the end of the day. Do you understand that?

A. I don't recall exactly. The claim had so many components. But clearly this is dealing with the tax component. Judge Jernigan says that I may get to the point where I have to estimate it. But she didn't want to do it at that time. That's the previous page. And it looks to me that she just deducts the amount that was in the proof of claim. But I'm not -- I'm not really sure.

Q. Well, I'm sure the Court can look back at the transcript, if it wants to.

But let me go to another issue. You talk about that there could be undue delay as a result of this claim if this isn't resolved with an estimation now. Do you remember that?

A. That's correct, yes.

Q. And you talked about how, I believe but I want to make sure I'm correct, but that the claimant trust agreement

has -- it's been extended twice; isn't that right?

A. Yeah. Pursuant to its terms it had a three-year initial term and there was a possibility of two, could have done it at one time or two separate ones. We got two separate extensions of one year that were built into the claimant trust agreement.

Q. And Mr. Daugherty's, this remaining claim is the only claim that remains outstanding in the Highland bankruptcy; is that right?

A. That's right. We would hope to get done with this and dissolve the claimant trust and work to just close this thing down now after six plus years.

Q. Okay. But it's possible you could get Mr. Daugherty's approval to extend the claimant trust agreement further, correct?

A. I don't think it's up to Mr. Daugherty.

Q. You could -- you could ask for his permission to do that as the remaining claimant, correct?

A. Could do a lot of things, but it doesn't have the affect of modifying the plan, modifying the claim and trust agreement, dealing with other beneficiaries who have already received distributions and could be negatively affected by it.

Q. The parties -- the parties could agree to it. Obviously it's subject to Court approval. I get that. But

that's something that the parties could do and seek Court approval, right? Fair?

A. No, I don't believe so. I think modifying a confirmed plan is a very difficult thing. It's not just a couple of parties coming in and saying, hey, we'd like to modify this plan. Move on. That's just not how the Bankruptcy Code works.

Q. So then let's talk about undue delay again. So Strand is the tax matters partner handling this for Highland, correct?

A. That -- it's a -- we touched on this earlier. Strand is the tax matters partner, full control and authority over the matters related to the pre-petition Highland. We, Highland reorganized, don't have any authority, don't have any visibility, don't have any liability. This is a limited partnership pre-- slight change in the Tax Code. So nothing affects Highland, even pre-petition Highland. It doesn't pay any taxes. It goes to the partners.

Q. Well, isn't there a period in time before the, I think it was the plan was approved, fully aware the independent board of Highland -- I'm sorry. Strike that. Let me back up.

Wasn't there a period of time when the independent board of Highland was in control of Strand?

A. That's correct, yes.

Q. Which included you, correct --
A. That's correct.
Q. -- on board?
A. Yes.
Q. And so the independent board of Highland could have worked through Strand to resolve the IRS audit dispute, couldn't it?
A. It's a good question. We definitely did have Hunton and they were Highland's counsel at that time, because Highland was in bankruptcy and Highland -- and Hunton was handling the negotiations with the -- the IRS. And I don't know if we could have just rolled over and taken the IRS' offer. We certainly would have been sued by Mr. Dondero. Now I'm pretty sure we would have been sued by Mr. Daugherty, as well. So I don't think we ever thought of that. I'm totally speculating. But I know we didn't think of it as we could just accept the audit, the completed audit result and go. But, frankly, at that time I don't think I knew the audit was actually done, too.
Q. But there was a period of time of approximately two years where that was within the control of Highland's independent board?
A. The independent board controlled the tax matter partner, yes.
Q. Okay. Let's go to HERA and ERA and the books and

records real quick.

So Mr. Morris asked you a number of questions about who -- or whether HERA had its own servers, own email domains, stuff like that and you answered, no to all those questions. Do you remember that?

A. That's correct, yes.

Q. And so all of the business in terms of communications or documents relating to HERA and ERA were maintained on Highland's servers; is that fair?

A. There was no business. There was assets that were owned at HERA and then there were Highland employees that were the beneficiaries, if they had vested. And there wasn't a separate business. But if there was something that had to be done like keeping the financials updated, those were maintained, as I said, in QuickBooks, not on Highland's system. But they were maintained by Highland employees.

Q. So are you contending, as you sit here today, even though you weren't at Highland at the time, that there were no email communications that went back and forth amongst Highland employees that were handling certain matters with respect to HERA or ERA?

A. No. They're not HERA and ERA's emails. They're Highland emails.

Q. But they related to HERA and ERA, right?

A. Just as if my lawyers have emails amongst

themselves, they're not my lawyers -- they're not my emails, they're about me.

Q. And who was the manager of HERA at the time?

A. The manager of HERA at the time before ERA was a board of directors of HERA that, for at least some period of time, Mr. Daugherty was on.

Q. And also Mr. Dondero, correct?

A. I don't think Dondero was a member of the board of HERA. I'm pretty sure he wasn't.

Q. What about other Highland employees?

A. Yeah, there were only Highland employees. They were the beneficiaries. So the ones who would get whatever the benefit from that vehicle was going to be.

Q. What about litigation that HERA or ERA was involved in? Was that being handled by any in-house counsel that were employed by HERA or ERA?

A. No.

Q. Was it being handled by in-house counsel that were employed by Highland?

A. Certain Highland employees would have been involved in that. But outside counsel would have represented HERA. Highland employees only worked for Highland. Meaning as that's who their duty would lie to.

MR. YORK: So let's go to the settlement agreement. Let's go to Highland 5, please.

Q. Go to Section, I think it's 8.
A. Yes.
MR. YORK: Ms. DeBerg, thanks.
Q. All right. We talked about that there would be a transfer of interest with respect to HERA and ERA, correct, as it's written in the settlement agreement?
A. That's correct.
Q. Okay. The term interest there is not a capitalized term, is it?
A. It's a term of art that anybody who deals with corporate forum knows what it is.
Q. It's not a defined term either, is it?
A. No. It's what everybody would know it would mean.
Q. Okay. In fact, the -- in HERA and ERA the ownership mechanism was through something called units, wasn't it?
A. There was -- I testified before, yeah, there are two kind of units and it depended on whether people vested.
Q. Right. So let's go to Exhibit -- Highland Exhibit 52.
So we first have the transfer agreement that's with respect to ERA; isn't that correct? Highland ERA Management, LLC, which we shorthanded as ERA here, correct?
A. That's correct.
Q. Which it uses the capitalized term in this transfer

agreement of interest, correct?

A. That's correct.

Q. Which it refers back to the membership interest, correct?

A. That's correct.

Q. And then on the next page, or the next document there, the transfer agreement with respect to HERA, it uses the capitalized term, interest, correct?

A. That's correct.

Q. That refers to common -- outstanding common units of HERA and also Series A preferred units of HERA, correct?

A. Yes.

Q. And by the way, neither of these transfer agreements contains any provision acknowledging or agreeing by Mr. Daugherty that Highland has fully complied with its obligations to transfer all of the interest, including the books and records of HERA and ERA to him under the settlement agreement, correct?

A. These agreements only deal with the transfer of the membership interest. I don't believe they have any kind of release in them.

Q. And, in fact, the purpose of the settlement agreement was to transfer these, quote/unquote, interests as it's in the settlement agreement to Mr. Daugherty for the purpose of facilitating potential claims against former

Highland executives and employees, correct?

A. No. The purpose of the settlement agreement was to settle his claims against Highland.

Q. I apologize. I mis-spoke then. The purpose of the transfer of the interest as it's written in paragraph 8 of the settlement agreement is to facilitate the prosecution, or the potential prosecution of claims against former Highland executives and employees, correct?

A. I don't know if it said exactly what they were against. But it was certainly he thought he could bring claims against at least Dondero and Okada is what I understood it to be. And he wanted to use this entity to try to do that because he previously sued this entity and he thought based on that jury trial verdict that he still might be able to do something with the entity.

Q. Okay. I just want to be clear. Are you -- are you agreeing or disagreeing that the purpose of the transfer of the interest, which included HERA and ERA books and records was to facilitate the recovery of those potential claims?

A. Yeah. You asked me about executives. And it doesn't say anything about who's he going to go sue.

Q. Okay. Now you said that you had concerns about the cost associated with gathering this information. And that was conducted by Mr. Klos and Mr. -- is it Cortoware (phonetic)? Did I pronounce that correct?

A. Cornway, according to -- Conaware (phonetic).

MALE SPEAKER: Ivan Conyia (phonetic).

A. I'm sorry, that was just the Seery, when I asked Seery it says Cornway. But, no, he's Conaware.

Q. The searches for the HERA and ERA materials were conducted by Mr. Klos and Mr. Conaware, correct?

A. Conaware. I don't know if Mr. Conaware participated in that. I don't recall.

Q. Okay. Were these searches something that were -- I mean, Mr. Klos, I assume he's a salaried employee, right?

A. He does get a salary.

Q. And you didn't pay an outside vendor to conduct any of the searches, right?

A. No, we did not pay an outside vendor to conduct any searches.

Q. And you would agree with me, if you turn to Exhibit 53, Highland Exhibit 53, this is my letter dated January 30th of 2024. Let me know when you get there.

A. Yes.

Q. First off, at the very first line of the second paragraph on the first page I say, As Mr. Daugherty and Mr. Seery discussed last summer, Mr. Daugherty and HERA appreciate the documents Highland has provided to date.

Do you see that?

A. I see it.

Q. All right. Do you agree that at some point in the Summer of 2023 you and Mr. Daugherty had a conversation that related to the HERA -- the materials that Highland had provided about HERA?

A. I don't think that's true.

Q. You don't think that's true?

A. No.

Q. Okay.

A. I can tell you why, if you want me to.

Q. No. Hang on. I want to go to the next part.

I then go down and identify that there were email correspondence involving HERA's in-house counsel. And I identified them by name with outside legal counsel at various firms, as well as other email exchanges regarding the transfer of assets, allocation of expenses, et cetera, et cetera, et cetera as I go down there. And a demand was made for Highland to provide that information.

Do you see that?

A. Yes. It generally -- generally I see what you're saying.

Q. And to be clear as we looked at in Mr. Morris' response which was Exhibit, I believe, 54, Highland refused to do so, correct?

A. Yeah. You were asking for what you called in-house counsel at HERA. They were Highland employees, not HERA

employees. Then you were asking for not books and records, but you were asking for emails which are not produced, metadata, native format, the pdf -- you certainly weren't asking for books and records. But I do see that.

Q. That's the way you interpreted the agreement?

A. That's the way I'm reading your letter.

MR. YORK: Just one second, Your Honor. Your Honor --

Q. Mr. Seery, you mentioned earlier that it was Mr. Daugherty who was characterizing the tax refund as a bonus. Do you remember that?

A. That's in your pleadings, yes.

Q. All right. Are you aware that Highland in Mr. Daugherty's prior state court litigation had characterized the tax refund as a bonus under the category of bonus?

A. I'm not aware of that.

Q. Okay. I'm going to -- let me show you. I only have an electronic copy.

I'll represent to you, Mr. Seery, that this is what was marked by Highland as Exhibit 131 in that trial. And it's a summary of Mr. Daugherty's compensation. Do you see that?

A. Yep.

Q. And there's a category called bonus on here. Do you see that?

A. Yes, I see it.
Q. And then it's got four subcategories underneath bonus which is bonus, spot bonus, tax refund, and loan forgiveness. Do you see that?
A. Yep.
Q. And in 2000 -- February of 2009 for Mr. Daugherty the tax refund under bonus it has the $1.475 million number, the same one that's on his compensation of benefits statement, right?
A. I believe that is, what, 2013, yeah. Something like that.
Q. Yep. For 2009.
A. I don't know if I've ever seen this document before.
Q. You've never seen this before?
A. I don't know.
Q. Okay.
A. I just don't specifically recall that one.
THE COURT: Hold on one moment, Mr. York. Okay. I just wanted to make sure that the record picks it up.
MR. YORK: Sorry.
THE COURT: No, you're doing fine. It was -- I'm not blaming Mr. York. But because he was closer over there, he wasn't in front of a microphone.

MR. YORK: Apologies, Mike.
THE COURT: Okay.
MR. YORK: Your Honor, I'm going to move to admit this as, I believe it will be Daugherty's 99. And I've got -- we'll get an electronic copy uploaded after the hearing.
THE COURT: Can you tell me what it is?
MR. YORK: It is -- I'll describe it as it was -- it's a summary of Mr. Daugherty's compensation while he was at Highland that was marked by Highland as an exhibit in the prior state court action between Highland and Mr. Daugherty.
THE COURT: And it was -- what was the exhibit? It was an exhibit in what?
MR. YORK: In the prior state court litigation between Highland and Mr. Daugherty.
THE COURT: Go back over in front of the microphone, please. I've got some more questions.
MR. YORK: Sure.
THE COURT: Is this a Delaware case? Is it Texas?
MR. YORK: Texas.
THE COURT: But not before this Court?
MR. YORK: Correct. It was in state court.
THE COURT: Okay. Mr. Morris?

MR. MORRIS: Why wasn't this on their exhibit list? They objected to our documents in the Texas state court matter and now they don't put them on their exhibit list and they're offering them in the middle of a hearing?

MR. YORK: I'm offering it simply as impeachment to his testimony earlier that it's -- we're -- saying we're the ones characterizing it as a bonus. Highland is the one who characterized it as a bonus back then.

THE COURT: Okay.

MR. YORK: Which by -- sorry.

THE COURT: You've seen the document, correct, Mr. Morris?

MR. MORRIS: I've seen the document.

THE COURT: And they've shown you on the screen?

MR. MORRIS: It's fine, Your Honor. Objection withdrawn.

THE COURT: Okay.

Daugherty's Exhibit 99 will be admitted.

MR. YORK: All right. Your Honor, pass the witness.

MR. MORRIS: I have nothing further, Your Honor.

THE COURT: All right. I do have some questions for your, Mr. Seery. And forgive me, these are

probably going to be some really basic questions that you're probably going to be going, what's going on? But --

THE WITNESS: It's six years.

THE COURT: -- please understand, I haven't had this case.

THE WITNESS: I understand, Your Honor.

THE COURT: So one of the things that I'm trying to understand as it pertains the claimant trust and Highland Capital Management, my first question is this, is Highland Capital Management still operating?

THE WITNESS: Yes. So very, very minimally, but we still are operating. So we -- the employees who were listed on the release, which I'm at the top of Mr. York showed previously and Mr. Daugherty is (inaudible word). Those were the -- there had been 75 employees, roughly, at Highland. That was the team that I selected and took to be the reorganized Highland. And that was -- I didn't need 75 folks. I needed 13 really good ones. And so that's the group that took over to manage these assets, manage claims, and there were a lot of assets. And we've done that now for six years and have been incredibly successful in making distributions.

The plan was reorganization of Highland and then a claimant trust would sit above it. All the claims would get converted to different classes of trust interests in this

liquidating trust. The ones for our purposes that are important is Class 8, general unsecured, Class 9, which is the subordinated class that we sort of put in place for iffier claims, if you will. Because we -- they were much more speculative claims and much more speculative recovery. And then Class 10, which was senior unvested contingent partnership interests. Those go to Hunter Mountain Investment Trust. And then Class 11, which is senior -- or subordinated partnership interests that are also contingent, unliquidated, unvested. But they're now liquidated because we had a hearing on it.

We have since wound down almost all of the assets. And we have along the way reduced the size of our team so that we have a much smaller team now that we're holding together. It's really just four of us left. And we're down to pretty minimal assets that we can manage. We have claims we have to still pay off, but we have money in the indemnity trust to do so. And we'll be winding down and dissolving the claimant trust by August 11th. And then we'll only have an entity that can continue and that's the indemnity trust. So we hope to have all of the claims resolved. If Mr. Daugherty's claim is disallowed, then there will be no payment on it. If it's allowed and then estimated for some amount, there will be a payment on it that's fully reserved. He'll get his payment. We'll be done. A prerequisite to dissolving the claimant

trust is that all claims are resolved. And this is the last one. So once that's done, we'll basically be winding everything down.

Now we do -- we'll probably still have appeals with Mr. Dondero, because that's just the nature of it. But that will be funded and handled by the indemnity trust. And the claimant trust will ultimately go away.

THE COURT: Okay. The funds that will -- let me rephrase that.

Assuming that the Court estimates a claim and that claim was estimated for an amount less than the reserve, the funds that are remaining after the payment of that claim from the reserve, where do they go?

THE WITNESS: So they'll be used to continue the operations, the wind-down operations. There's always required to keep somebody around to turn off the lights, including dealing with the tax man who has to -- we have yet to file final returns. Then ultimately those will go up to the indemnity trust. To the extent that the indemnity trust doesn't have any more indemnification obligations that it has to deal with, and that really has to address a lot of, frankly, litigation that you'll hear more about in a few weeks, then it ultimately will get distributed to Hunter Mountain Investment Trust which is the Class 11 holder. There's a little piece that's owned by an entity called H

Clom (phonetic), which Dondero owns, but has really no rights and just a right to some distribution. So ultimately if, frankly, it's me as the indemnity trust administrator, I'm completely certain that there's no liability for anybody who might be indemnified or any entities that might have been indemnified, then we'll start making distributions to Hunter Mountain Investment Trust.

THE COURT: Okay.

THE WITNESS: And they have a $320ish million claim. There's about $45 million that ultimately could get distributed to them.

THE COURT: Okay. And so once that is done, the claimant trust has been dissolved. The indemnity trust gets dissolved.

THE WITNESS: Ultimately indemnity trust would get dissolved, yes.

THE COURT: And Highland Capital Management dissolves, as well?

THE WITNESS: Yes.

THE COURT: Okay. I just couldn't understand. And forgive me, I just wasn't for sure if we actually had an ongoing operation that was doing similar things that Highland was doing before and just now we have a reorganized debtor. But it was always a liquidating plan and a liquidation termination where a ceasing of all -- all of Highland, the

pre-petition Highland?

THE WITNESS: Correct. And there is no -- there will be no post-petition Highland going forward. It's a liquidating plan where every asset will be gone, every claim will be paid. And then ultimately the only thing left will be the indemnity trust to indemnify unfortunately people like me.

THE COURT: Okay. You had testified earlier that the independent board did actually control the tax matter partner. When did that change? Did that change upon confirmation?

THE WITNESS: Effective date.

THE COURT: Oh, the effective date of the plan.

THE WITNESS: So we -- we -- the independent board was actually appointed as the board of Strand with control over the debtor because of the LP structure and Strand was the GP. And so it was a little bit of an awkward structure any way. I think we could have done it differently in hindsight, but that's the way it was set up. And that litigation with the IRS, as I said, the audit took seven years. And then the litigation has been going on since then. And unfortunately, Your Honor, you'll find that the litigation continues.

THE COURT: Okay. I believe that's the

questions I have. Either side is welcome to have any questions based on what the Court asked.

MR. YORK: No, Your Honor. Thank you.

THE COURT: All right.

MR. MORRIS: No further questions, Your Honor.

THE COURT: All right.

THE WITNESS: Thank you, Your Honor.

THE COURT: You may step down. Thank you.

MR. MORRIS: So Highland calls Mr. Daugherty.

THE COURT: Let me ask this question. Maybe I should have asked this beforehand.

I'm assuming that these are similar witnesses that we would have had for both sides. And so, Mr. York, are you intending to recall anybody, or are you all handling what would be your direct and cross at the same time?

MR. YORK: The latter.

MR. MORRIS: Yes.

THE COURT: Okay. So we're not planning on once you are finished with Mr. Daugherty, okay, now Mr. York is ready to call him back up on the stand or anything like that. Okay. I just wanted to make sure. That's what I figured. I just wanted to make sure. Because as you guys know, we're getting closer towards the end of the day.

MR. MORRIS: Yeah. I'm going to try and cut this down, to the extent that I can.

May I proceed?

THE COURT: You may proceed.

MR. MORRIS: Good afternoon, Mr. Daugherty.

MR. DAUGHERTY: Hello.

MR. MORRIS: You were employed by Highland from 1998 to 2011, correct?

THE COURT: I'm sorry, thank you. We haven't sworn Mr. Daugherty in. I'll let my law clerk take care of that. I do understand he is an attorney -- if I'm not mistaken, he's an attorney. But we'll still have him sworn in.

(The witness was sworn by the Court's law clerk.)

THE COURT: All right. You may proceed now, Mr. Morris.

MR. MORRIS: Okay.

PATRICK DAUGHERTY

The witness, having been duly sworn to tell the truth, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q. Mr. Daugherty, you were employed by Highland from 1998 to 2011; is that correct?

A. That's correct.

Q. And you entered into an amended employment agreement dated as of December 31st, 2004, correct?

A. I don't remember the dates, but there was an employment agreement.

Q. I think you have our binder there. If you could just go to Exhibit 11. Can you just confirm that that's the employment agreement, the last employment agreement that you had at Highland?

A. I'm sorry, where are you telling me to look?

Q. 11.

A. 11. Yeah. This is the employment agreement that I was operating under.

Q. Okay. And that's -- do you recall that in late September 2011 you resigned?

A. Sounds about right. I think September 28th.

Q. Okay. If we can go to Exhibit 12, the next exhibit. Is that your resignation letter?

A. Yes.

Q. Okay. And to the best of your recollection, the employment agreement that we just looked at that is Exhibit 11 was the employment agreement that was in effect at the time of your resignation, correct?

A. As far as I know.

Q. Okay. And do you recall that attached to the employment agreement was that form of release and separation agreement that was attached as Exhibit A?

A. It was -- I'm sorry, what was that attached to?

Q. Attached to your employment agreement.
A. Are you talking about historically?
Q. No, no, no. Let's take a look at Exhibit 11. I don't want to rush this. I apologize for that.
So 11 is the employment agreement that was in effect at the time of your resignation, correct?
A. Yes. 11 was in effect, as I understand it, at the time I resigned.
Q. Okay. And the last --
A. However, my resignation wasn't effective as of 9/28.
Q. And when was it effective as of?
A. I think they made it effective late October, October 30th, because they tried to convince me to come back.
Q. And you didn't come back, correct?
A. I did not.
Q. And attached to the employment agreement is Exhibit A, the form of separation agreement and release, correct?
A. Yes.
Q. And you never signed that, correct?
A. I was never given the opportunity to sign that.
Q. Okay. But it was attached to your employment agreement and you had a copy of your employment agreement?
A. I did not have a copy of my employment agreement.
Q. You received K-1s during the time that you were at

Highland; is that correct?

A. Yes.

Q. Okay. At the time that you left in 2011, to the best of your knowledge, none of Highland's tax returns were subject to an audit, other than the 2008 tax return at the time of your departure, correct?

A. I don't think that's true. I think the 2005 was subject to an audit at that time.

Q. And did that have any impact on you?

A. There's ultimately a resolution that came from the IRS. I can't -- you know, they sent me a letter saying it was resolved in some manner. I can't remember what it was.

Q. And it's certainly not part of your claim today, correct?

A. It is not.

Q. Okay. And as you sit here today, you're not aware of any of Highland's pre-2011 tax returns that are subject to an audit today, correct?

A. I can't say that. No, there's 2008, '07, and '06.

Q. Are all three of them subject to an audit?

A. As I understand it.

Q. Okay.

A. When you guys did the -- when Highland did the 2008, well, they did the maneuvers in 2009 for the 2008 period, there was some second version of this that went

through where they had to restate 2007 and '06.

Q. Only your 2008 federal income tax return -- withdrawn.

Your 2008 -- your own personal 2008 federal income tax returns are not being audited, correct?

A. That is not correct. The IRS has reserved the right to look at all of it. They made that point to me on multiple occasions.

Q. Have they identified -- so you filed this in 2009, right?

A. I did.

Q. We're in 2026, correct?

A. Yeah.

Q. In the 17 years since you filed your returns has the IRS identified any, anything about your personal 2008 income tax returns that they're reviewing?

A. They just noticed to me that everything in the return is still under review, pending resolution of this other matter and its affect on the rest of my return.

Q. Okay. I'm going to ask you the question again. Has the IRS identified anything with respect to your 2008 reviewing the last 17 years that you understand to be under review?

A. I'm sorry, I want to make sure I answer it. Could you give me that one more time?

Q. In the 17 years since you filed your 2008 returns, has the IRS identified any aspect of your return that they are reviewing?

A. No. They have not been specific on anything.

Q. Okay. You're aware that in December 2017 the IRS field audit -- apologies. You're aware that in December 2017 the IRS field office concluded their audit and proposed adjustments to Highland's 2008 income tax returns, correct?

A. I don't think that's fair. I think I was made aware of it through this process. But I -- I can't say that I thought that I was aware that they completed their audit. I never dealt with the IRS about it, so I can't say specifically what the IRS determined.

Q. But that's what you were told by Highland in 2018, correct?

A. Yeah. I was told by Brian Collins, the HR director at Highland who was not the tax partner for the partnership.

Q. Okay. And Mr. Collins told you specifically that the IRS field audit had -- the IRS field examiners had completed the audit, correct?

A. He sent me a couple of communications. I'd be more comfortable if you'd just show me what they were, because I want to make sure we get this right.

Q. Sure. Exhibit 60.

A. All right. So you're asking me about 2017?

Q. Let's just -- this is an email that Mr. -- this is a letter that Mr. Collins sent to you by regular mail and email in February 2018, correct?

A. That is correct.

Q. And he told you in this email that a team of IRS field examiners had conducted and audit of Highland's 2018 returns, correct?

A. Yeah. I thought you said final before.

Q. Is that correct?

A. It doesn't say, final. It says, conducted an audit. So I agree with that that this was sent to me. I don't know if they really did or not.

Q. And in the last sentence he told you the exam, meaning the IRS field examiners, concluded their audit and have proposed an adjustment to the 2008 return, correct?

A. Are you reading in the last paragraph?

Q. The last sentence of the first paragraph.

A. Oh, I'm sorry.

It says, Exam concluded their audit. Am I reading that right?

Q. Yes.

A. Exam concluded their audit and have proposed an adjustment to the 2008 return. You said IRS. It says exam. I'm just reading off your letter here.

Q. It's not my letter, it's Mr. Collins'. But exam is

a defined term in that --

A. When I say, you, I'm sorry, Highland Capital is who you're here to represent.

Q. Yeah.

A. So, yeah, Exam concluded their audit and have -- it says that. I'm not exactly sure what that means.

Q. Okay. And you understood at the time from the documents that Mr. Collins provided to you that Highland had shown that your allocable share of the adjustment was about $1.257 million, right?

A. You're saying I got that from this, no.

Q. Well, he included Form 886Z, right?

A. I don't know. Did he? It's not on here. Are you talking about for February 3rd, 2018?

Q. Yeah. He refers to the -- he says --

A. He's referring to it, but you're saying what it says and I don't see the document. I can't tell you what it says.

Q. Okay. Turn the page to Exhibit 17.

A. Okay.

Q. And if you look at the bottom right corner ending in Bates number 31, that has the same number that I just read, right? He provided you with Form 886 that showed your allocable share of the adjustment was approximately $1.257 million, correct?

A. For this particular issue, yes.
Q. Okay. That's -- what do you mean, this particular issue?
A. Well, as I mentioned, there's 2008, 2007, and '06, and there were multiple issues going on, as I understand it.
Q. That's not part of your proof of claim, is it?
A. I'm not sure what you're talking about.
Q. Your proof of claim only deals with 2008, correct?
A. Well, I think you're taking it out of context. And I understand why you are, because you weren't there. But in 2008 they made these elections, okay. But the way to get to the refund -- I'm sorry, in 2009 they made the elections. It impacted 2008. But the way they made the elections also impacted 2007 and 2006. So when I say I'm here for the tax refund, the tax refund I got in 2009 for what was filed in 2008, but as I said, they had to go back and restate '07 and '06 to try and capture some of the stuff, and I use that term loosely, some of these elections through these other entities going back tax years.
Q. Sir, can you go to Exhibit 15, please?
A. Yeah.
Q. Do you see that the adjustment that is proposed is approximately $166 million?
A. I see that this adjustment for this particular issue is 166.3 million, yes.

Q. Okay. And so the total corrected amount should be $169 million plus change?

A. I'm not -- I see that there's a corrected that says 169.9, yeah. I don't know what that's for.

Q. And do you see at the top of that column it says, period end 12/31/2008?

A. Where am I looking?

Q. Just above those numbers there it says, period end 12/31/2008.

A. Yes, I do see that.

Q. Okay. And then if you flip back to the document that was given to you, Exhibit 17, the page ending in 31, that is our allocable share of the corrected number, correct?

A. I don't know. Is that listed on there? Are you just -- I don't know if that relates to the other or not.

Q. Okay. If you go to the next page that $169,902,949 --

A. Can you slow down a second? Okay. I'm on 18.

Q. 17.

A. Sorry. Okay. I'm on 17 and I see a 1.257 number. Is that what you're talking about?

Q. Sure. That's your allocable --

A. With my Social Security Number, which I prefer us not to be making this public.

Q. That's -- the document's been filed under seal.

A. Oh, thank you.
Q. Okay. The -- you understood that the 1.257 number was your allocable share of the total corrected adjustment, correct?
A. I did not.
Q. You didn't?
A. No.
Q. Did you understand that the allocation reflected in this document pertains solely to December -- the 2008 income tax return?
A. I did not. As I told you, I didn't see this document for the first time until when we did our deposition. So I don't know what it pertains to and what it's limited to.
Q. Okay. You received refunds from the IRS of previously paid taxes in the aggregate amount of $1,273,930 related to your 2008 tax returns, correct?
A. I always thought it was 1.1 to 1.2 so I'll take your number there.
MR. MORRIS: Okay. And that's the number that's in the joint pre-trial order, Your Honor.
A. Okay.
Q. You've never been required to pay that back to anybody, correct?
A. I mean it's undetermined, so I don't know.
Q. I'm asking you as of today --

A. Today, no.
Q. -- in the 18 years or 17 years since you got the money, you could have done whatever you wanted with it, fair?
A. No.
Q. Okay. You understand that your reserve claim is the last undisputed claim in the Highland bankruptcy case, correct?
A. That's what I've been told.
MR. YORK: Undisputed?
MR. MORRIS: Disputed, thank you.
MR. YORK: I'll take that right now.
THE WITNESS: Maybe I answered too soon.
MR. MORRIS: I'll give you a quarter.
Q. You --
A. I know where it's been. I don't want that quarter.
Q. You can't -- you can't identify any other disputed claim, correct?
A. I'm sorry, anything other than that 2000 --
Q. Other than your claim, you're not aware of any other disputed claim?
A. Oh, yeah, not that I'm aware of. But I wouldn't be in a position to know.
Q. Okay. Do you have any knowledge or any view as to whether or not there would be any consequences to Highland if it did not begin the dissolution process by August 11, 2026?

A. Yeah. They just need to amend.
Q. Did you hear Mr. Seery testify that there could be tax consequences by failing to begin the dissolution process because it's a trust and not a corporate entity?
A. I don't think he has expertise to say that and he's made up things to me before. So I don't put a whole lot of faith in what he says.
Q. Okay. But you also don't have any knowledge or ability to tell the judge that Mr. Seery is wrong; is that fair?
A. He's just pulling things out of the air, you know. So I couldn't tell the judge that either, or I would be pulling it out of the air.
Q. Okay. I'll let the judge assess Mr. Seery's credibility.
Let's fast forward to 2019. That's the year that Highland filed for bankruptcy, correct?
A. Yeah. Yes, it is.
Q. And you filed a number of proofs of claim that were later consolidated into Claim 205, right?
A. You're talking about 2020 now, not 2019?
Q. Whenever it was. I'm not putting a time --
A. Oh, okay. I thought you were asking 2019. That was done in 2020.
Q. Okay.

A. I'm thinking October of 2020.
Q. It was consolidated?
A. I think so.
Q. Okay. And ultimately you reached an agreement with Highland to resolve all of your claims except for what we're referring to as the reserve claim, correct?
A. I wouldn't say all my claims. I think I reached an agreement to release Highland from all my claims. I had other claims. I've got claims against others, as we well know.
Q. Maybe it was my bad question.
You reached an agreement to resolve all of your claims against Highland --
A. Correct.
Q. -- other than the reserve claim, my fault.
A. Maybe I misunderstood.
Q. And Exhibit 5 is the settlement agreement; is that right?
A. I'm sorry, where are you now?
Q. Exhibit 5.
A. Yes.
Q. And that has the books and records provision in paragraph 8, correct?
A. Yes, it does.
Q. And in your deposition you testified that you

didn't recall what the reference to spreadsheet was, correct?

A. That's correct.

Q. And you didn't have an understanding of what the phrase, Highland system meant, correct?

A. No, not really.

Q. Okay. Again, the sentence refers to, "The HERA and ERA books and records (spreadsheet) maintained on Highland's system -- on HCMLP's system", correct?

A. Yes. That's what it says.

Q. And you understood at the time that HCMLP referred to Highland Capital Management LP, correct?

A. Yes.

Q. So you would agree that what Highland was required to do was to deliver the HERA and ERA books of records (spreadsheet) that were in Highland's system; is that fair?

A. Yes. But I believe HCMLP included its affiliates, didn't it?

Q. Highland was required under Section 8 of the settlement agreement to deliver the HERA and ERA books and records (spreadsheet) maintained on Highland's system, correct?

A. That's what that says, yes.

Q. Okay. So if it wasn't on Highland's system, Highland would have no obligation -- even if it was the HERA and ERA books and records, if the HERA and ERA books and

records weren't maintained on Highland's system, Highland wouldn't even have an obligation to provide that; is that fair?

A. That gets into how you define Highland system. You've got to remember there's the secret server at SAS Management that these guys were working off of. I know it's not you and your team, but they had some secret systems that were funneling through Highland.

Q. And did you know that before you signed this agreement?

A. I found out that, I think you brought it out in discovery, or a deposition, I guess. Was it Scott Ellington and Isaac Levington?

Q. I have no idea. I'm just going to move on.

A. Well, I think it happened some time in 2021, so -- and as you recall there was like -- we came up with our settlement agreement the morning you all were going to go confirm a plan. And then it kind of continued thereafter. So I think --

Q. Can -- can --

A. I'm trying to answer your question.

Q. I know. I'm going to try and make this really simple.

A. Yeah.

Q. At some point you learned about what you just

testified to, what did you call it, SAS?

A. Well, you know it too, SASManagement.com. They were operating out of the Cayman Islands with it.

Q. So if you knew that before you signed the agreement, you didn't take the time to, you know, reference that in the agreement, correct?

A. Again, I thought in was incorporated in HCM's system.

Q. But you didn't -- you didn't understand what that term meant, you just told the judge that, didn't you?

A. I'm not following you.

Q. And if --

A. Oh, I'm saying in my mind HCM system includes everything that HCM touches.

Q. Okay. Okay.

A. Yeah.

Q. The sentence that you negotiated that we're focused on here does not say that Highland had to deliver any of its own books and records, correct?

A. That's true.

Q. Okay. And the sentence that you negotiated that we're looking at right now does not say that Highland had to deliver anything in its possession that related to HERA and ERA, correct?

A. I'm not sure that's exactly true because it says

all interest in HERA. So to the extent it was with them, they had to give it to me -- or you.

Q. The sentence that you negotiated does not say that Highland was required to deliver anything in its possession that related to HERA or ERA, correct?

A. The sentence itself doesn't say that, no.

Q. Okay. And the sentence that you negotiated that we're looking at -- withdrawn.

A. I was going to say, please tell me which sentence.

Q. Shortly after the Court approved the settlement agreement you and Highland signed the transfer agreements that we looked at earlier, correct?

A. That is true.

Q. Okay. So you don't -- you don't make any claim that Highland failed to perform any obligation under the settlement agreement except the books and records sentence that we're just focused on right here; is that fair?

A. Well, it gets into all of its interest, all of its stuff, to me is a crude term. When I talk to Seery I said, stuff. So that's what I'm talking about.

Q. Okay. And the stuff that you're talking about is the HERA and ERA books and records (spreadsheet) maintained on Highland's system, correct?

A. It's emails. It's communications. It's case files. And all these things I've talked to Seery about, you

know, So I know you weren't part of that dialogue. But that's what really happened.

Q. Let me try -- let me try and ask this question for simplicity purposes.

Other than that provision of Section 8, you do not contend that Highland failed to perform every obligation it made to you under the settlement agreement; is that fair?

A. That's totally false. You violated the section that said you wouldn't -- that we agreed to stay the tax refund thing and you violated that too.

Q. Okay. Anything else?

A. I mean, that's what comes to mind. I don't know if this is a trick question or something but, you know.

Q. Nope.

A month later after signing the agreement after the Court approved it, a month after the Court approved it Highland delivered a whole bunch of documents concerning HERA and ERA, correct?

A. That is true.

Q. And if we look at Exhibit 2, that exhibit describes at least broadly some of the documents that were provided, correct?

A. Yes.

Q. Okay. And so you would agree that on May 5th, 2022 Highland delivered a link to certain HERA and ERA books and

records and they -- and sent two additional emails with zip files that contain additional tax related documents and other business records, correct?

A. Listen, none of that's said here, but I do remember that that happened. It was a very collaborative process so, yes, I remember those things even though this email doesn't say it specifically. I'm not disputing that.

Q. Okay. I mean I think it does, but that's fine. I appreciate that.

A. You said tax and I don't see anything about tax in there.

Q. So if you look at the -- the page ending on 01, the second sentence says, I will send you two further emails with zip files that contain additional tax related documents and other business records.

A. My apologies. I didn't see that.

Q. That's okay.

A. I read the first one.

Q. That's okay. But you were aware of this at the time, right?

A. Look, I was aware that we were trying to get this information. I had a very positive relationship with Mr. Seery at the time. So this is not inconsistent with how we were operating with each other.

Q. And were you aware at the time that -- Mr. Uebler

was your lawyer at the time, correct?

A. Yeah, he was.

Q. And were you aware at the time that Mr. Uebler was told that Highland believed that the production completed its obligations under paragraph 8?

A. Say that last part.

Q. Were you aware at the time that Highland told Mr. Uebler that with the production of these materials, subject to a final review, Highland believed that it had satisfied all of its obligations under Section 8?

A. I'm sorry, but you just made a really good point. This is between Tom and you.

Q. Correct.

A. And I wasn't always privy to those email communications. I had my own dialogue going with Mr. Seery, which was very collaborative, very -- he was doing all the right things, I was trying to do all the right things. So we were not taking the position that that was whatever you said, last and final, or complete, any of that. Because there were certain things that I knew existed that I knew Seery may not know about. And I'd say, what about this? What about that? And so he would go and look and then we would get more.

Q. Okay. There's no question that Mr. Uebler was authorized to act on your behalf with respect to the delivery of documents pursuant to the settlement agreement, correct?

A. Well, that's not fair. I mean, he was certainly authorized to communicate with you because it would be inappropriate for you to communicate with me. But I went principal to principal. And so he didn't make any final determinations with you.

Q. And he didn't send you a copy of this email?

A. I don't know because my dialogue was with Jim Seery. And I didn't focus on what you guys were haggling about.

Q. Okay. Over the summer and into the fall did you have further communications with Mr. Seery about more information that you wanted?

A. Many times.

Q. And did Mr. Seery respond to your request for additional information?

A. He was pretty good about it.

Q. And is that reflected in Exhibit 3?

A. I don't know about that.

Q. Take a look.

A. Yeah. Okay.

Q. And pursuant to this letter, Highland produced more information to you; is that correct?

A. That is true.

Q. Were you -- did you receive this email? It was obviously sent to you, right?

A. Yeah. This is obviously what I was talking about, Seery and I talking to each other. So I focused much more on this than what you guys were doing.

Q. Okay. And Mr. Seery said a couple of times in this email, we're done with HERA and ERA, right?

A. Not quite, because we were also have phone dialogue. And I'd say, I mean, there's a recording of it. He's mad about it, but we go into great detail of what I'm missing and what I need. I can't remember exactly when that was, but it was like -- I just can't remember exactly when it was.

Q. Mr. Daugherty, Mr. Seery told you in writing with copies to other people that upon the transmission of the information described above, Highland will have satisfied its obligations under the settlement and our involvement in HERA and ERA, your entities, will be complete. He told you that at that time, correct?

A. All right. Let me just look at it and make sure it says what you're saying it says.

Q. I'm referring to the last --

A. Last paragraph?

Q. -- substantive paragraph, yes.

A. That last paragraph seems right. I mean, he said that. But I pointed out that there was more and he realized I was right.

Q. You didn't respond with an email taking issue with anything that he said in this email, correct?
A. Well, we talked on the phone most of the time. I didn't -- I didn't feel the need to make formalized emails.
Q. Even though he's making formalized emails to you?
A. You know, again, it was a cordial relationship. And I had a lot of respect for him, frankly, and the job he was doing. And I was appreciative that he was working with me on this.
Q. Okay. If you go to Exhibit 51.
This is -- take your time. I don't mean to rush you.
A. Yeah, give me a second, please.
Q. Take your time.
A. Yes, sir.
Q. This is the follow-up emails to Mr. Seery's October 19th email; is that fair?
A. If we're looking at -- this is from DSI Consulting to Jim Seery.
Q. Well, if you start at the back you'll see Mr. Seery's email. And then --
A. Back of what?
Q. The page --
A. Oh, over here on the right?
Q. Yeah.
A. Okay.

Q. So that's the email we were just looking at. And then there's a series of responses where you chime in and Mr. Seery chimes in, Mr. Romey signs in -- chimes in. And it's all about, you know, making sure you have all of the information and have access to the data, correct?

A. Yeah. It's this dialogue right here.

Q. Okay. And nobody on your behalf reaches out to Highland again until January of 2024 with respect to the issues of HERA and ERA documents; is that fair?

A. I don't think that's true. I think Jim and I had phone calls.

Q. Okay. Can you take a look at Exhibit 53?

A. Yeah.

Q. This is an email from Mr. York to me?

A. Yes.

Q. And do you see in the second paragraph the only discussions between you and Mr. Seery that he refers to were the discussions from the prior summer?

A. I'll just read it.

Okay. Well, that would be 2023, right?

Q. Uh-huh.

A. As I mentioned, I think I talked to him on the phone in 2023.

Q. Okay. There's no correspondence that you're aware of, correct, between October --

A. He says, As Mr. Daugherty and Mr. Seery discussed last summer, that's the Summer of 2023.

Q. So listen, stick with me here.

A. Okay.

Q. In preparation for this trial between October 2022 and January 2024 there's no written communication between or among principals or lawyers concerning any documents, correct?

A. Yeah, I don't know.

Q. Okay. And at no time during that period did Highland give you anything, correct, in terms of documents related to HERA or ERA?

A. I think that's right. Oh, actually, I don't know if I got something in 2023 or not.

Q. Okay. But you don't know?

A. I don't. I don't recall.

Q. All right. Is it fair to say that after October 2022 Highland never produced any more information relating to HERA and ERA?

A. I think that's -- I think that's right.

Q. Okay. And Highland never deviated from its position that it had satisfied its obligations under paragraph 8, correct?

A. That part I don't agree with because I had numerous conversations with Seery up to 2023 when I was telling him,

like I said in a collaborative way, hey, Jim, I know it's not you. I don't trust Thomas Surgent or David Klos because I have reasons not to. I think you should get somebody else, an independent third party because I'm missing this item, this item, that item. I actually went by category. And he always embraced me, you know, with good faith. So it was just not combative.

Q. Okay. You started a lawsuit at that time; is that right?

A. When you say I, what are you talking about?

Q. HERA was the plaintiff.

A. HERA started a lawsuit in 2024.

Q. And you authorized that lawsuit, correct?

A. I did, as the chief asset recovery officer.

Q. Okay. This is the important part here. You authorized that lawsuit believing that Highland hadn't satisfied its obligations under Section 8, correct?

A. That's true.

Q. Okay.

A. By that time you all ghosted me. You ghosted me in like January 2024. I'm like, wow, okay.

Q. Okay. And -- and instead of starting the lawsuit you could have attempted to enforce rights under Section 8 of the agreement in order to get the documents that you believed you were entitled to; is that correct?

A. Listen, I didn't want trouble with Highland. I tried -- I told you, I've got a lot of respect for you. I mean, you do some things that I don't like, but you're a very good attorney. And I didn't want to deal with this. I didn't want to spend all of this money. I was -- I'm insolvent. You know, I don't have the money to do this. So I didn't want to go and have a battle that -- I had to pick my battles at that time.

Q. So I appreciate everything you just said. And I'm grateful that we've always had a professional interaction. But I just have to ask you the question, you made the decision based on your circumstances not to seek the documents from Highland before you authorized HERA to commence that lawsuit in early 2024; is that fair?

A. That's fair, yeah.

Q. Great. And Mr. Bobo is another lawyer who represents HERA; is that correct?

A. Yeah. Bobo had just come on the scene I think in December '23, maybe January 2024.

Q. And do you recall --

A. The HERA scene, the HERA scene. He doesn't work for me.

Q. And do you recall -- but you retained him on behalf of HERA; is that fair?

A. I mean, I'm the human that signed the documents,

yeah.

Q. Yeah. And do you recall that Mr. Bobo threatened to sue Highland in order to get more HERA and ERA documents?

A. No, I didn't. Didn't really focus on it.

Q. Let's go to Exhibit 54.

A. Okay.

Q. Oh, no, I apologize. I think it's Exhibit 4.

A. 4.

Q. What back at the beginning.

And if you'll look --

A. Okay, I see it.

Q. Okay. And do you see Mr. Bobo's email to me starting at the bottom of the second page?

A. I do. I mean, are you talking about over here?

Q. Yeah.

A. Yes, okay.

Q. And at the very last line of it, very last sentence says, "This language is neither ambiguous or confusing" in reference to that sentence in paragraph 8. And he goes on to say --

A. Wait, wait, wait. Where? Give me a line number so I can get there.

Q. Sure. So it's Exhibit 4.

A. I got that.

Q. It's Mr. Bobo's email that begins on the bottom of

the second page.

A. Yep.

Q. And do you see that he purports to quote from paragraph 8 of the settlement agreement?

A. This is a long email.

Q. I'm just focused on the one sentence at the bottom.

A. Bottom of what?

Q. The second page.

A. HERA has absolute right, this?

Okay. Thanks. Yep, I see it.

Q. Okay. So Mr. Bobo purports to quote from paragraph 8 and then says, "This language is neither ambiguous nor confusing and includes all books and records that Highland has related to HERA without caveats or exclusions." That's what you're looking for, right, books and records that Highland has --

A. Me being Pat Daugherty, or do you mean HERA?

Q. Yeah. Well that's what your lawyer was asking for at the time. You would agree with that, right?

A. I didn't read this email. But I'm reading it now. This language is neither ambiguous and confusing includes all books and records that Highland has related to HERA. That's what it says.

Q. Okay. And he concludes his letter -- his email, if you look at the end on page 4 by telling me, Rest assured,

your continued refusal to comply with the settlement agreement will result in our seeking enforcement of same with the Bankruptcy Court.

Did you know that he threatened to sue Highland if we didn't comply with his demands?

A. Again, I tend to go principal to principal. I don't get involved in lawyers manning up on one another. So I didn't -- I didn't read this. I didn't focus on it. I didn't think about it.

Q. Okay. Do you see my response to Mr. Bobo beginning on the first page?

A. Typical you. Two guys going at it, yeah.

Q. And I told him, bring it on.

A. Yes, you did.

Q. I did. I told him to bring it on, didn't I?

A. You did. You guys do that.

Q. And he didn't do that, though, he didn't bring it on, right?

A. No, he didn't.

Q. Right. I mean, I specifically said, well, it would be an unfortunate turn if your client's honestly believe otherwise, meaning that we haven't fulfilled our obligations, a judicial order bringing finality to these matters would ironically be helpful. That's what I told your lawyer at the time, right?

A. I mean, like I said, I wasn't involved in you guy's dialogue. But it says what it says.

Q. Okay. And then after you -- after you authorized HERA to file a lawsuit there's a motion to dismiss. Do I have that right?

A. Are you talking about in the HERA action?

Q. Yes, sir.

A. Yeah, it's been out for 17 months now.

Q. Yeah. And you were aware that the motion to dismiss was filed, correct?

A. Yes.

Q. And at no time did HERA ever make a motion in the district court for leave to serve discovery on Highland, correct?

A. We thought that was inappropriate and antagonistic to the Court to ask for discovery when he hadn't even ruled on the dismissal. So there's a reason for that.

Q. So again -- but that's your reason, that's a decision that you made. It's an option that was available that you chose not to pursue, correct?

A. To make -- to seek discovery on you guys? If we make it to dismissal, of course that's going to happen.

Q. Listen carefully to my question.

A. Okay.

Q. In early 2024 after you filed --

A. It did not happen in 2024. It hasn't happened yet.
Q. Hasn't happened yet. You made the decision that you didn't want to ask the Court for leave to serve discovery, correct?
A. I don't want to get into attorney/client privilege, but we didn't do anything.
MR. YORK: I'm going to tell you not to.
THE WITNESS: Okay. Sorry.
Q. I'm not asking for attorney/client. As a matter of fact, you made --
A. I can tell you we didn't do it.
Q. You didn't do it?
A. Yeah.
Q. Okay.
THE COURT: Real quick just so the Court's clear I want to ask this question right now. Is this the January 2024 lawsuit that was filed?
MR. MORRIS: Yes.
THE COURT: Okay.
THE WITNESS: I think it's February 2024.
MR. YORK: I think it was February.
THE COURT: Okay. But we're talking about the early 2024 lawsuit?
THE WITNESS: This is it, yes.
Q. Now you have -- you have a counterclaim for

specific performance, correct?

A. Yes.

Q. And you're pretty explicit about your motives for that counterclaim, correct?

A. I don't know what you mean by that. But, yes, I have that counterclaim.

Q. Just a couple of more questions.

If you can go to Exhibit 1.

A. Okay.

I'm there.

Q. Okay. So you've got the first cause of action is for breach of contract for failure to provide all the books and records --

A. What page are you on, please?

Q. Apologies. 10.

A. Okay.

Q. Okay. And in paragraph 14 you say, Daugherty bargained for and obtained Highland's interest in HERA as well as Highland's books and records related to HERA. Have I read that first sentence of paragraph 14 correct?

A. You're on 11 then, okay.

Q. Yeah.

A. Yes.

Q. Okay. So that's the claimed breach, the claimed breach is that --

A. I would say that I'm looking at --
Q. Let me just finish the question.
A. Oh, yeah.
Q. The claimed breach is that Highland has not provided what you describe as the bargained for consideration of Highland's books and records related to HERA, correct?
A. As I said, I want to go back to that sentence because it's wonky. It says, Daugherty bargained for and obtained Highland' interest in HERA as well as Highland's books and records related to HERA. I think the -- I think it probably could have been worded better. But what we're saying, you've got our stuff and we want it. We don't want Highland's stuff, if that's what you're suggesting. We want HERA's stuff.
Q. Okay. I'm not suggesting anything. I'm just reading your --
A. Listen, I just read it and you're trying to have me validate it and I'm like, what are we trying to do there, you know?
Q. Okay. And on the next page you've got your cause of action for specific performance, right?
A. Okay.
Q. And in paragraph 22 you said, If the Court does not order Highland to comply with the terms of the settlement agreement and turn over the relevant books and records,

Daugherty will be irreparably harmed. Have I read that correctly?

A. Yeah. I think that's a better sentence to describe it.

Q. And the reason that you would be irreparably harmed is because HERA will be unable to adequately pursue its litigation against Dondero, Okada, and Ellington, correct?

A. That's a concern, yes.

Q. Okay. And what this really amounts to is an insurance policy for you so that if you lose the HERA lawsuit, are you going to come back and sue us because we didn't give books and records?

A. No. Just give us the stuff and we can get out of here.

Q. I just want the judge to understand what the motivation for this claim and this cause of action is.

A. It's simple. Give us the stuff. You were so cooperative and then you stopped.

Q. Is that really what you wanted, all you wanted was the stuff?

A. Yes.

Q. Do you know that we offered to give you the stuff immediately after you filed the counterclaim?

A. Okay.

MR. YORK: Your Honor --

A. This guy.

THE COURT: Go ahead and object.

MR. YORK: -- I'm going to object. Seriously, we're going to get into some sort of like 408 type discussions.

MR. MORRIS: Your Honor, 408 is not nearly as broad as people think. You're not allowed to use settlement materials for the purpose of establishing liability. I'm not doing that. What I'm doing here is establishing motive. The fact of the matter is, Your Honor, we in writing offered to do email searches. We offered to use up to four custodians. We gave them date ranges. We gave -- and I think it's important for the Court to understand that what's going on here is that this is an attempt to manufacture a contingent claim in the event that he loses the HERA litigation. I'm going to grab that too, Your Honor, 408.

Prohibited uses. Evidence of the following is not admissible to prove or disprove the validity or amount of a disputed claim or to impeach a prior contradiction. The furnishing of an offer. That's the thing. I'm not using the fact that we made an offer to prove or disprove the validity or amount of a disputed claim. If Your Honor finds that paragraph 8 says that Highland has to turn over its own books and records, or that Highland has to turn over books and records related to or concerning, I lose. It doesn't matter.

I'm not here trying to prove that. I'm trying to prove that Mr. Daugherty has no interest in getting books and records because he would have worked with us.

MR. YORK: I tell you what, I -- you know what, I'll let you ask the question if you tell him what the specific terms are and he can answer as to why those were insufficient.

MR. MORRIS: Sure.

THE COURT: All right. So the objection is withdrawn?

MR. YORK: Sure. Objection's withdrawn.

MR. MORRIS: May I approach, Your Honor?

THE COURT: You may.

Q. Mr. Daugherty, are you aware that I sent the email to Bo and to Drew on the last -- the next to the last page on November 17th?

A. I'm aware that you had communications with them. This is the first time I'm looking at this.

Q. So you haven't seen this email either?

A. No. My lawyers typically summarize things to me and then I tell them.

Q. And did they tell you that we offered to do email searches using up to four custodians for a specified date range and to produce all hits without regard to attorney/client privilege?

A. Okay. So I did get the first part of that. You were going to limit it to four custodians. And I'm like, no, these guys are notorious for hiding behind other custodians, et cetera, et cetera using other email sites. I'm like, we're not going to limit it that way. I'm not going to agree to it. So if you want to open it up to anybody that touched this stuff and give us back our stuff, then we have something to talk about. If you want to limit it to four people, that's not right because we -- Highland Capital is an institution of fraud and lying which you guys -- you know. And by the way, it's not that I think that Seery is trying to hide this stuff. But I know Thomas Surgent was.

Q. Do you know Thomas Surgent hasn't worked at Highland for a long time?

A. Yeah. Well, I mean, he left like, what, February 2025?

Q. He certainly wasn't there in November 2025, correct?

A. No. He -- you put him in charge of the search up to that point. And I told Seery, don't do it. That guy's a criminal.

Q. Sir -- sir --

MR. MORRIS: I move to strike. Your Honor, I move to strike. That's just reprehensible to attack people who aren't even here without basis.

THE COURT: I'm going to overrule the motion to strike. He's testified. I'll deal with credibility and relevance and all of that.

MR. MORRIS: Okay.

Q. The only response your lawyer made was that you rejected the proposal, right?

A. That's right.

Q. You didn't -- you didn't make a counter-proposal, you didn't take the opportunity to see how much information you could get so you could assess what the boundaries were, correct?

A. I had a dialogue with Seery when I did all that kind of stuff for a couple of years. And then you all went cold on me. And so, yeah, this is what the relationship turned into. No relationship, lawyers talking to each other.

Q. Okay.

MR. MORRIS: I have nothing further, Your Honor.

May I approach the witness just to put an exhibit sticker on this?

THE COURT: Okay. Did you want to move for this to be admitted into evidence?

MR. MORRIS: Oh, yes, I do. I thought the objection was withdrawn, but I'll --

MR. YORK: Well, the objection to the question

was withdrawn. I'm not going to object to the exhibit.

THE COURT: Okay. So I have -- so Exhibit 67, Highland's Exhibit 67 will be admitted.

MR. YORK: By the way, Your Honor, as a matter of housekeeping, Exhibit 99 that I moved to enter earlier, I have -- I realized after I was done, it actually was Daugherty Exhibit 41 which has been admitted. I apologize.

THE COURT: That's okay.

DIRECT EXAMINATION

BY MR. YORK:

Q. All right. Mr. Daugherty, I'm going to try to make this brief because there are a lot of things that I was going to ask you about that Mr. Morris covered with you.

A. That's fine.

Q. Let's do this first.

MR. YORK: Laura, would you please pur up Daugherty Exhibit 57?

A. Is that in here, or is that a separate?

Q. Do you have Daugherty Exhibit 57 --

A. Oh, thanks for putting that up.

Q. -- in front of you, Pat?

A. Yeah, I do.

Q. Do you recognize this document?

MR. YORK: Zoom out a little bit, please. It's a little to --

A. I've got it in a hard copy.
Yeah, I recognize it.
Q. Can you tell us what it is?
A. Yeah. So when I took over control through my entities, I don't actually own it personally, which we can talk about that, but other entities that I'm invested in own HERA. When HERA got its -- when I had those units transferred over to me, first thing I did was have our counsel reach out to all of the law firms who had done legal work for HERA since -- actually, since the beginning, 2009. And that would have been Abrams & Bayliss. That would have been Andrews Kurth. That would have been DLA Piper. And then individual lawyers, if you want me to go through them I can. There's others. Those are the primary ones and then we went to Highland.
Q. All right.
A. So I'll make it quick. We went out and we said, hey, you know, give us your case files. Give us your invoices. And give us everything you had to do with HERA. This -- all those other law firms basically told us to pound sand, except for Abrams & Bayliss, the Delaware counsel. And they gave us a treasure trove of exhibits, including this email right here.
Q. And just to be clear, so this was something that was given to Mr. Uebler?

A. Yes.
Q. Okay. And the email here that you're referring to was sent by Mr. Surgent in 2013, correct?
A. This is correct.
Q. And it's related to HERA and has a whole bunch of HERA documents that are attached to it, right?
A. Correct.
Q. Something that you -- did you get this from Highland separately under your settlement agreement?
A. No.
MR. YORK: Okay. Let me go then to Daugherty Exhibit 95, please, Laura.
Q. And, Mr. Daugherty, do you -- look at the screen, Mr. Daugherty. Do you recognize this document?
A. Yes.
Q. And is this another document that you received from Abrams & Bayliss in response to your request?
A. Yes. Steven Howell is a lawyer at Abrams & Bayliss.
Q. That related to HERA, correct?
A. Correct.
Q. And that included emails that were at least at the top, an email from Steven Hoff at Abrams & Bayliss to Tdemaris@HCMLP.com. and also to Mr. Surgent and also to Kevin Abrams, correct?

A. Correct.
Q. Was this email string and the attachments something that you received from Highland as part of the settlement?
A. No.
MR. YORK: Go to Daugherty 96, please, Laura. Zoom in at the top, please.
Q. Do you recognize this document?
A. Yes.
Q. What is it?
A. This is an email from Isaac Levington who was in-house counsel at Highland and he also represented himself in the Delaware case as counsel to HERA who sends an email to Kevin Abrams. I'm not going to go through the list. You can see them all there. But Scott Ellington, the general counsel at Highland who also represented himself as counsel to HERA in Delaware, Mark Katz, who also represented himself as counsel for HERA in Delaware, and Michael Hurst who also represented himself. And then to Eric Gerard, who at the time of this email was at Highland representing HERA as it related to December 2013, the escrow.
Q. And the escrow that was purportedly set up to satisfy any judgment that you obtained in the Texas State Court action against Highland and HERA back in 2014, correct? Is that when it went to trial?
A. He represented to the jury that this escrow was in

place to pay me any claim I would get against HERA.

Q. What happened to that escrow account?

A. The day my judgment was mandated, Ellington, Katz, Levington orchestrated a series of transactions to strip the escrow of all its assets and leave it with zero.

Q. Now, as part of that state court action, Highland had claims back against you, didn't they?

A. They did.

Q. And as part of that a jury awarded Highland, I believe it was approximately $2.8 million in attorney's fees against you; is that right?

A. Plus interest.

Q. Not on attorney's fees?

A. No, that's right. The interest was 3.12 or something.

Q. Okay. And when that mandate occurred in addition to stripping the escrow out, did Highland take any other steps to try to enforce the judgment against you?

A. Yes.

Q. How so?

A. They put a lien against my house. They sent a constable --

Q. Let me -- I'll do it this way.

A. I don't want to do it.

Q. Did they file a writ of execution against you?

A. I'm not going to lose. They forwarded a writ of garnishment. They filed turnover and they sent the constable over to my house.

Q. And the writ of garnishment --

A. In front of my wife and kids.

Q. And the writ of garnishment was filed with respect to your interest in HERA, correct?

A. Yeah.

Q. And was there an affidavit that was filed by Scott Ellington the general counsel of Highland that was attached to that writ of garnishment application?

A. He said he was in charge of litigation with me. I'm paraphrasing. And that I didn't have the means to satisfy the judgment so that that garnishment order needed to be executed.

Q. Specifically didn't his affidavit say that he was unaware of any other assets that you had other than the HERA -- your HERA interests?

A. He was trying to seize what he thought was mine, (indecipherable few words), which were my wife's and Trustway.

Q. Okay. Was -- did you get any of these emails relating to the escrow agreement from Highland as part of your settlement?

A. I'm sorry, I'm a little shaken up. Give me that

one more time.

Q. Did you receive any of these emails from Highland as a result of the settlement?

A. No.

Q. Okay. And by the way, what did you end up having to use the tax refund money that you received from the 2008 tax return for?

A. I was on fumes and I used what was left of that and I had to borrow.

Q. Did you use it to pay the judgment to Highland?

A. Yeah.

Q. Did you have to use it to fund your -- to pay your attorneys to represent you in the litigation Highland brought against you?

A. Yeah.

MR. YORK: Okay. Show Exhibit 98, please, Laura.

Q. Do you know what -- do you recognize this document, Mr. Daugherty?

MR. YORK: If you can zoom in, please.

A. That print is too small. I can't read it.

Q. Is this another email relating to the Abrams & Bayliss escrow?

A. Yeah. This is Scott Ellington.

Q. And is this the email that reflects that it was

transferred out of HERA?

A. Yeah.

Q. This was an email that you didn't receive as part of -- from Highland as part of the settlement in this -- of your claims in the bankruptcy; is that right?

A. No.

Q. Okay. Did you -- Mr. Klos you heard testify earlier about admitting that you did not get all of the invoices from all of the law firms that had been representing HERA in the past. Do you agree with him on that?

A. That I didn't get them all?

Q. Yes.

A. Yes, I agree with that.

Q. And do you know specifically are there ones in particular that you're interested in seeing that you don't have?

A. Yes.

Q. Why?

A. They're from Gruber Hurst and they involve communications with Thomas Surgent. And there's some missing from Andrews Kurth with Mark Katz. And also this Gerard guy and Scott Ellington.

MR. YORK: Okay. You can take this down, Laura.

Q. Mr. Daugherty, briefly let's go to your

compensation and benefits statement.

MR. YORK: Which is, I'm sorry, Laura, Daugherty 14. Thanks.

Q. Okay. Mr. Daugherty, you've seen this document before?

A. Sorry, I got it. I don't got it.

Yeah, I see it.

Q. Did you have any discussions with anyone at Highland at the time that this compensation and benefits statement was issued to you?

A. Up to and at this time. But primarily most of the conversations were prior to this. This was the result.

Q. Who did you have those conversations with?

A. Jim Dondero.

Q. Was the idea of paying you a bonus through an IRS tax refund your idea?

A. No.

Q. Whose idea was it, to your knowledge?

A. It was a scheme Dondero cooked up with the tax people at Highland.

Q. Would you have rather Highland paid you a cash bonus for 2008?

A. Yes.

Q. Was that something that Highland was unable to do?

A. Yeah. They were -- this was the first time Highland

almost filed for bankruptcy. It was during a great financial crisis. Lehman had failed and that triggered -- Dondero had sold a bunch of credit protection on Lehman swap, credit swaps the week before Lehman failed which blew Highland up. And the banks declared an event of default. And they came in. They wanted FTI Financial Advisor to review the books. They saw that Dondero and Okada were taking out money when the company was insolvent. So they file us in an involuntary 7. They asked me to come in and negotiate with the creditors because we didn't get into what my role was at Highland, but I was head of distress and head of restructuring. So call us knuckle draggers, but I knew all the knuckle draggers at the banks because we'd been on the same side and now they were against us. And they were like, Pat, we need you to step in.

So I started negotiating with them. And they were furious, initially with me and all of the other team leaders. And I'm like, we didn't get anything. But any way they said, you're going to agree immediately to no further cash payments, other than for base salary. And they -- they required a 20 percent reduction in force head count.

Q. Mr. Daugherty, when you received this compensation and benefits statement, did you discuss with Mr. Dondero at all what would happen if there was an audit of the Highland's partnership return for 2008?

A. On multiple occasions.

Q. What did he tell you?
A. He said --
Q. Strike that.
A. I was going to say --
Q. Okay. Let me back up.
All right. When you spoke to Mr. Dondero did you express concerns about the possibility that there would be an audit?
A. Yes, all of us did. And the tax people even informed us, you know, in a conference room. And they had a presentation about it.
Q. Did you express to Mr. Dondero that you didn't want to be on the hook at the end of the day for any adjustment as a result of that audit?
A. I told him it was a hair-brain scheme and I was very concerned about blow back for the IRS, which was definitely going to get, in my opinion, their attention.
Q. Okay. And did Mr. Dondero say to you at the time, we'll take care of any delta between what we're giving you and what the IRS ultimately decides?
A. Yeah. He said, I'll take care of you. I'll make it up to you. Not just me, but others.
Q. There's been a mention about the separation and release agreement form that was attached to your employment agreement. I want to go to Daugherty Exhibit 42, because

it's a better version.

A. This big one, or this one you just handed me?

Q. 42. Are you there? Let me know when you're there.

A. I'm not.

I guess I should just look at the screen. Yes, I see this email.

Q. It's an email from Mr. Collins to you on October 17th of 2011, correct?

A. Yes.

Q. And he attaches three documents -- he indicates he's attaching three documents to that, his email; a Highland separation agreement, a Cornerstone separation agreement, and a CR Verde (phonetic) consent. Do you see that?

A. I do.

Q. I will represent to you, Mr. Daugherty, that Exhibits 43, 44, and 45 are the attachments of those three draft agreements, okay?

A. Got it.

MR. YORK: Laura, if you would, would you please go for a moment to Daugherty Exhibit 46?

Q. So, Mr. Daugherty, at the bottom of this page of Exhibit 46 we get back to the email we just looked at in 42. And then you respond a few days later in the morning. Thanks, Brian. To clarify, is the offer an all or none deal? Meaning do I have to sign all three documents attached in

order for any one to be effective? Do you see that?

A. Yes.

Q. Mr. Collins responds to you later that day, Pat, yes, this is an all or nothing deal. We need all three documents signed. Do you see that?

A. Yes.

Q. Okay. Setting aside the differences between the form of the separation and release agreement that was on your employment agreement and what they sent you, did you have concerns about the other two agreements that they wanted you to sign?

A. Yes.

Q. And specifically which agreement or agreements?

A. The Cornerstone separation agreement and the CR Verde consent, action by consent.

Q. Because?

A. The Cornerstone separation agreement was one of -- I was a chairman of the board. It was one of the companies in my private equity portfolio. And the gates had gone up on the funds that -- I don't know if you know what that means, but it's in the talk right now with private debt funds, or whatever. But you put up the gates, you can't get your fees and you're limited as a manager on what you could do. And they were using Cornerstone to pay me $600,000 to sign the separation agreements with Highland, which I thought was

illegal and against the Investment Advisor Act of 1940.

Q. And so even if you had -- were willing to sign the separation and release agreement that they had sent you, which was different that the form that they had sent you, you still couldn't do that because of what your concerns with the Cornerstone and the CR Verde documents?

A. Yeah. We didn't talk about CR Verde, but that was making me release all of my interests that were validly awarded to me there. So, no, I wasn't going to sign all three. It was a Catch 22.

MR. YORK: Your Honor, I pass the witness.

MR. MORRIS: I just have like two or three questions, I hope.

THE COURT: Okay.

REDIRECT EXAMINATION

BY MR. MORRIS:

Q. Mr. Daugherty, I'm sorry that you went through what you went through many years ago. You filed claims against Highland relating to those issues, correct?

A. Yes.

Q. And those claims were settled, correct?

A. Again, only against Highland. I'm still pursuing against others.

Q. Correct. How much have you received from the Highland estate on account of the allowed claims that you

have today?
A. Net of having to pay back debt or just what I got?
Q. What you received from the Highland estate.
A. Oh, 12 -- the settlement agreement, 12.75 million.
Q. Okay. So today you've received over 12.75 million and the only things left is this income tax reserve claim, right?
A. Oh, I don't have any of the 12.75 million.
Q. I didn't ask you that. The only -- the only thing --
A. What do you mean the only thing left?
Q. The only claim that you have left --
A. Oh, I have left against Highland, well, books and records --
Q. Right.
A. -- and the interest thing.
Q. Okay. Can you go to the compensation statement, whether it's Highland Exhibit 32 --
A. Do you want to give me a number?
Q. -- or I think it might be your Exhibit 14.
MR. YORK: Daugherty 14, yeah.
Q. Either Daugherty 14 or Highland --
A. Yeah, I got it.
Q. Okay. This is the compensation statement that you're suing on, right?

A. Yeah. This is the tax refund issue bonus, yeah.
Q. And you don't disagree with what I said to the Court earlier this morning that the entirety of the agreement is reflected in those three sentences under 2008 tax refund, right?
A. I do not agree with that. You're just taking the words, but there were oral agreements and discussions that went along with it to get there.
Q. Okay. Are those cited in your proof of claim?
A. I don't know what you're talking about.
Q. You filed a proof of claim in this case, didn't you?
A. I don't know how -- I mean, there's conversations I had with Dondero that awarded me this.
Q. Okay. This document doesn't say anything about an audit, correct?
A. It implies it.
Q. Sir, this document doesn't refer to any audit, correct?
A. It implies it. But it doesn't say it in actual words. But it implies -- if actual refund deviates materially from estimate. The only way that can happen is from an audit.
Q. It doesn't say anything about a guarantee, does it?
A. What do you mean guarantee?

Q. This doesn't guarantee anything for you, does it?
A. Everything in here was guaranteed on the compensation as long as I was employed that day.
Q. As long -- and you're not employed today, correct?
A. I was employed the day that it was given to me. That's when it became guaranteed.
Q. Okay.
A. I'm not employed there today.
Q. And we know that bonuses were typically given in three installments, correct?
A. Three, sometimes four.
Q. And you understood that if you were employed at the time that you got that award and you quit between, let's say hypothetically payment number two and payment number three, you'd forfeit your right to payment number three, correct?
A. That is true. In fact, when I left that was the case.
Q. Okay. So what's happened here is that you got the tax refund back in 2008 or 2009 and what you're looking to do is get a payment in the future when you're no longer employed, correct?
A. Incorrect. I got this the day I was there and it was subject to being trued up based on what's -- as we all, I think can acknowledge, a 17 year odyssey that won't end.
Q. There's a place for your signature at the bottom of

this document. Do you see that?

A. I do.

Q. You didn't sign it, did you?

A. I did sign it.

Q. Have you produced that in discovery? Have you seen it anywhere?

A. Highland had that document.

Q. Okay.

MR. MORRIS: No further questions, Your Honor.

THE COURT: Hold on one second, Mr. Daugherty. I don't know if I have any questions.

I do want to just make sure I'm understanding. And I don't think that it -- it sounds like maybe it was related to your other proofs of claim or your other grounds for your claims against the bankruptcy estate. But you're not asserting that any of these -- any of the parties that are still with Highland, any of the officers, were the ones that were directing the actions taking to collect judgments. That was all pre-bankruptcy?

THE WITNESS: If I understand you correctly, I have -- yeah, it was all pre-bankruptcy.

THE COURT: Okay.

THE WITNESS: David Klos is the only one who's a legacy issue. And I had to release him, you know, pursuant to my settlement with Seery for everything up to the time of

that settlement agreement. So if that's what you're asking, am I trying to make claims against any of these people for the past? No.

THE COURT: Okay. Thank you.

And so the issue on the documents is some invoices related to attorneys that were paid by Highland related to HERA and ERA transactions; is that correct?

THE WITNESS: Not exactly. This is the bait and switch. If you could indulge me for a minute.

What Highland did is they took all the money out of HERA and then they allocated, as Klos did truthfully say, 93 percent of their legal costs back to HERA. And through accounting (inaudible word), they're like, oh, HERA, you don't have any money. Highland will lend you the money to pay our legal fees. But since you don't have any money at the end of each year we'll write off the note so that Highland can expense it in their K-1s.

THE COURT: Okay.

THE WITNESS: And Klos was the architect for that.

THE COURT: Okay.

THE WITNESS: So HERA was paying it, even though it was Highland. But Highland gave HERA the money to pay for it and then forgave the loan against HERA each -- well, they didn't forgive the loan, wrote it off and kept the

loan out there so that when Mr. Seery transferred the units over to me in March, there was a $14 million debt owed back to Highland. And I'm like -- we had a long dialogue on this. I'm like, Jim, this is fraud.

THE COURT: The lawsuit that was -- thank you. The lawsuit that was started in February of 2024, that's HERA's efforts to recover for these, I'm just going to say bad acts that are being asserted by the former Highland employees or directors, officers, partners.

THE WITNESS: Yeah. There's a spirit of negotiation with Mr. Seery. He's like, you can have all the former guys, Dondero, Ellington, I'm sure you're going to hear those names in these other matters. He goes, but you're going to release everybody in my core unit. And I didn't want to release Thomas Surgent. And we went back and forth and back and forth and he goes, you're releasing Thomas Surgent. And I'm like, I hate doing this, but, okay. So Seery's core group of, I want to say 13 people on that list, I released all of them. And then I got HERA in order to go after Hunter Mountain Trust, Dondero, law firms, Hunton Williams. It's 21 defendants. And I say, I. HERA is going after them for stripping of its assets.

THE COURT: Okay. This wasn't asked of you, but what is your position as to what your percentage ownership of Highland is or was at the time of the 2008 tax

return?

THE WITNESS: Yeah. In all fairness, it's been an item of debate because we had a profit's interest in the form of an LTIP, long-term incentive plan, that converted out of the partnership interest. And so there are really only two real partners at Highland, it was Dondero and Okada. They got all the money, all the distributions. And we got phantom income. You know, we got our percentage allocated to us, but they never gave us distributions. So then they would true us up for the tax, you know, we'd get like a tax true up each year. And I think that's what they're talking about. He had a tax account. Well, I never got a dime from there and I had a tax account, but it was so small when Highland gave me, as Mr. Seery said, oh, you got $4 million of carry loss forward. I'm like, well, my capital account isn't enough to take advantage of it.

So the way the tax rules work, you only get to take the losses up to the amount of your capital base. And anything else you have to wait until future years, if you make money. And if you quit, you lose it forever. So I never got what's been presented as me getting. And that' why this is so complicated. Because how much do you really own? How much are you really getting? And then what is your capital base in that account, because that limits what the IRS can give you, even if they're on your side.

THE COURT: Okay. But you don't dispute that when you filed your 2008 tax return, your K-1 provided a specific percentage of ownership?

THE WITNESS: I mean, I had no say in it. The K-1 comes from the issuing company, Highland Capital. I had no say in it.

THE COURT: Okay. I think that's all the questions that I have. Any party is welcome to ask any follow-up questions.

MR. YORK: I don't have any follow up.

MR. MORRIS: I've got -- I've got two quick ones.

FURTHER REDIRECT EXAMINATION

BY MR. MORRIS:

Q. I understand that Highland sent you the K-1 --

A. Yeah.

Q. -- with your percentage interest in Highland, correct?

A. Whatever they allocated to it.

Q. And you accepted that document. You sent it to the IRS. And you received a refund based on that document, right?

A. I wouldn't say accepted it. You make it like I had a choice. When an issuing company gives you your K-1, the IRS is getting notified of that so you have to file it in

your tax statements. It's not a matter of you agreeing with it. They're doing it in dual purposes. They're giving it to the IRS for the whole entity. And then each individual has to basically recognize their pro rata share. You don't get to debate it. You don't get to say, it's not mine.

Q. Did you ever tell anybody that you thought it was wrong?

A. I thought it was all BS, yes.

Q. Okay. But --

A. Dondero --

Q. -- that BS you took, you sent to the IRS, and you received a refund, correct?

A. And I got that provision in my compensation letter so that if it ever got called BS by the IRS, I would be made whole.

Q. And you said that you didn't have sufficient capital in your account; is that right?

A. Not to use all of it.

Q. Can you go to Exhibit 10, please?

A. Yep. Claimant trust agreement?

Q. Yeah. This is the -- the last amendment.

THE COURT: Which Exhibit 10?

MR. MORRIS: Highland Exhibit 10.

Q. Do you remember Mr. Seery pointed out the $4 million?

A. I heard it.
Q. Yeah.
A. It's accurate, I guess, from your end but not accurate from the Receiver's end. But go ahead and tell me where you want to go.
Q. Exhibit 10, Highland Exhibit 10.
A. I think it might be over here. Highland exhibits over here?
Q. Uh-huh.
A. This?
Q. Yes.
MR. MORRIS: This will be the last question, Your Honor.
A. Yes.
Q. Okay. If you go to page 3.
A. Yes.
Q. As of this -- according to this page, as of April 15, 2007 the book capital account for you was over $9 million; is that right?
A. For what year?
Q. As of April 15, 2007.
A. I don't know.
MR. MORRIS: Okay. No further questions, Your Honor.
THE WITNESS: Okay.

THE COURT: Anything further?
MR. YORK: Nothing further.
THE COURT: Thank you, Mr. Daugherty.
THE WITNESS: Thank you.
THE COURT: Any other witnesses?
MR. MORRIS: No, Highland rests.
THE COURT: Okay.
Mr. York?
MR. YORK: Mr. Daugherty rests, Your Honor.
THE COURT: Okay. I'm assuming you all have closings that you'd like?
MR. MORRIS: I can do it in 5 minutes.
MR. YORK: Same.
THE COURT: All right.
MR. MORRIS: I'm anxious to catch my plane.
THE COURT: What I was going to say is, we can end and we can set up a Webex and we could do closings if you wanted to, we could do them virtually. And I could set -- we could --
MR. MORRIS: I so appreciate that, Your Honor. Unless Mr. York insists, I'd like to be done today.
MR. YORK: Whatever is most convenient for the Court. I know the Court probably wants to get back to --
THE COURT: Well, I don't have a flight until 9:55. I don't trust lawyers and their estimates, so I'm

actually very impressed.

So the Court is okay. If you really want to do closings, we can do closings. I mean, let me just double check. Staff, and the building, I don't --

MR. EDMOND: We can always get out.

THE COURT: We can always get out.

MR. YORK: We just can't get back in.

MR. MORRIS: No one tell California, it's in reverse.

So really quickly, Your Honor. I just have like five points to make.

Number one, in no particular order, Exhibit 41, I think they are missing the boat on that. We've heard argument from counsel, we've heard from Mr. Daugherty that they believe that somehow that one sentence in that compensation statement provides some indemnity or guarantee to satisfy, you know, any obligation to the IRS, including interest and penalties. That's what they interpret the compensation statement today -- to mean.

Exhibit 41, I appreciate that Mr. Daugherty didn't accept it. I appreciate there's lots of reasons why he didn't accept it, but they've never directly addressed the issue that I'm asking the Court to focus on and that is, why would you include the very provision in that agreement, if you already thought it was included in the compensation

statement? It doesn't make any sense. And it certainly doesn't say the same thing. That's point one.

Point two. HERA/ERA, the HERA and ERA books and records. In my opening I pointed out to at least five different times where they have completely distorted the plain -- what Mr. Bobo said was plain and unambiguous language. It is the HERA and ERA books and records. It is not Highland's books and records. And I think Mr. Daugherty ultimately agreed with that. It is not books and records concerning HERA and ERA. It's not books and records related to HERA and ERA. It is a very intentionally narrow statement, plain and unambiguous. There's no dispute about that. The HERA and ERA books and records. We have provided them. And I think that's the end of the story.

The claim. I appreciate Mr. Liles-Tims' testimony. But that's not credible. It is not credible to tell the Court that under Section 502 you can't -- you don't have enough information in order to estimate the claim for purposes of distribution. I will argue, yet again, if the Court actually concludes that, the right thing to do is to disallow the claim. The right thing -- the wrong thing to do would be to say that even though there is indisputable evidence of undue delay, that the failure to estimate would cause undue delay in the administration of the Highland case, that we will let this go on indefinitely. I think there's

only two choices for the Court to make today. One is either to disallow it based on Mr. Liles-Tims' testimony that it's just impossible to estimate the claim, or the Court can take Mr. Klos' analysis and make whatever reasonable adjustments the Court thinks is appropriate. It's a completely objective analysis. The only possible exception is that that last line item with respect to, you know, the benefit to Mr. Daugherty from having the asset for 17 years, you know, it's a very modest number to begin with. It's 4 percent is what Mr. Klos used. And it's not even 4 percent. It's probably half of that, because he testified that they capped it at an amount that was equal to the penalties and interest.

If Your Honor thinks it's not worth anything, take it out. But you can surely estimate this claim. The undisputed testimony from Mr. Seery was that both, because there's a contractual obligation, the contractual obligation provides no out for further extensions. I mean, think about it. It would be a plan modification to try to change this again. Everybody would have to get notice. We've already had an objection from Dugaboy. I mean, how much money are we going to spend just litigating the issue. And what if we're wrong? What happens if the motion's denied? It doesn't make any sense. I appreciate that Mr. Daugherty has his own parochial interests. But those interests conflict with the broader estate. And in addition to, you know, the really challenging

problem of trying to get an extension on notice to everybody subject to objections after we had that just in June of last year, you have what Mr. Seery pointed out to, very real potential tax consequences because this is a trust with a finite life. That's what's supposed to happen any way.

We had the cross of, I think it was Mr. Seery, about, you know, testimony that happened at the claims estimation hearing. And, oh, that Judge Jernigan somehow said that the claim couldn't be estimated. The Court wasn't presented with information for that purpose. And she specifically said, it's not like I'm here in a claims estimation hearing, right? This is a very different procedure than that was. This is a procedure under 502. It's a procedure that requires the Court to estimate, if it can. And if it can't, the claim should be disallowed, if it can't for a very particular purpose. And that is because the failure to estimate will result in undue delay in the administration of the estate.

Finally just, again, on the books and records. You heard Mr. Daugherty. I appreciated his candor. He filed his lawsuit believing that he didn't have anything. He made a very conscious decision not to sue to collect the documents. We're here only because Highland had to get this case resolved, this particular claim resolved. So he filed a counterclaim. There's no question that we offered to give him, you know, emails and he refused to take those. And I

think the Court should take him at his word. In paragraph 22 of his specific performance claim that if the Court orders us to produce one single piece of paper, that is going to be his guarantee in a new claim, and a new lawsuit in the event that he loses his suit, which, you know, is very possible.

And I don't -- I don't think -- and, gosh, I feel bad for Mr. Daugherty. I've seen him get emotional before. I really do sympathize with it. I empathize with it. But that's not a reason to ignore the plain and unambiguous terms of the parties' bargained for agreement. It is the HERA and ERA books and records.

And so with that, Your Honor, unless you have any questions, I'm good to go.

THE COURT: So let me make sure I understand your position, because there has been discussion about emails. There was a showing of emails that they had received that existed. Is it -- is it your client's position that because they are coming from Highland email addresses and on Highland servers that that is why they are not HERA and ERA documents?

MR. MORRIS: And they're Highland employees on Highland server, Highland email addresses. If he wanted Highland's books and records, he should have negotiated that. That is not what he negotiated for. He negotiated for the books and records of HERA and ERA. And so those are

Highland's books and records. That has always been our position. Because if you start down the road of, oh, well, you know what, let me interpret that really broadly and let me ignore the fact that it says, the HERA and ERA books and records and interpret it to be anything related to HERA and ERA, anything concerning HERA and ERA, Highland's books and records, there is no end. And that was really Mr. Seery's primary concern. That's why he put limitations on costs and burden and why he told you quite candidly, look, we'll give you the interest. If we have books and records, we'll give them to you. No question that we gave it to them. No question Highland complied with every freaking -- every single obligation that it had. This is just -- this is just like it's time to cut the cord. It's time to -- it's time to estimate his claim. If the Court is going to allow it, estimate it. And it's time to be done with Mr. Daugherty and Highland. That's what we're looking for here.

THE COURT: Okay.

MR. MORRIS: Thank you, Your Honor.

THE COURT: Thank you.

MR. YORK: All right. Thank you, Your Honor. I'm also going to try to be brief. And I'm going to start with the allowance issue.

It is unequivocal that Mr. Daugherty had a separate written agreement in that compensation statement with

Highland. They don't dispute that at all. That allowed -- that entitled Mr. Daugherty to the true up based on however the IRS audit turns out. That has been established both under his Section 4.5 in the language about the bonus that had been paid and also -- that's 3.1 and then 4.5 for any other written agreements between the company and the executive.

I found it ironic that Mr. Morris brought up the transmission of the draft of the larger settlement -- separation and release agreement to Mr. Daugherty. And he raised what I think he thought was a rhetorical question of why would you include about the tax issue in that agreement if you thought it was covered by the compensation statement? Well that's because the draft actually supports Mr. Daugherty's testimony that that's what Highland and Mr. Dondero had promised him. Because -- Laura, if you'd put up PD-42.

Mr. Collins says at the bottom of his email, The documents are in draft format and are not available for execution at this time. After we have agreed on the terms, we can finalize and execute the documents. Highland was sending this to him saying, we know we've agreed to this in the past, so we're putting it in here. That's what they did.

You can take that down, Laura. Thank you.

With respect to estimation. The fact of the matter is

is that nothing has changed in terms of whether you can estimate reasonably Mr. Daugherty's claim relating to the IRS audit from 2020 until now. The IRS audit remains unresolved. And Mr. Morris argued that you couldn't quantify it. And it shouldn't be quantified for purposes -- for voting purposes. The Court agreed with that.

Mr. Liles-Tims has testified as to exactly why there are problems with Highland's own proposed calculations of what it thinks an estimate might be and all of the variables that apply here. And that it's unreasonable under the circumstances to be able to come up with a reasonable estimation of what that claim would be.

If the Court disagrees with Mr. Liles-Tims on that and is going to do some sort of estimation, I think the Court needs to keep in mind the fact that this is still an unresolved issue that Highland has with the IRS. And any estimation that the Court makes needs to be on the most conservative side possible for whatever Mr. Daugherty's potential exposure could be down the road, depending on how long that IRS audit dispute lasts. Because if the Court -- we face a Hobson's Choice here, as a result of Highland bringing this adversary proceeding. Mr. Daugherty could, if the Court were to estimate, end up at the end of the day with less that he receives on that claim than what he ultimately has to pay back to the IRS and what he was entitled to under

the compensation benefit statement.

Finally --

THE COURT: The reverse is true, though, too, correct? I mean, he could receive an amount of money and then ultimately the IRS could say, we accept your settlement offer at 50/50 or whatever and Mr. Daugherty's liability could be less than what the allowed claim is, if I estimate it.

MR. YORK: I acknowledge that, Your Honor. But a balance of the equities here, given that Highland is the one who decided now we've got to bring this when -- by the way, Highland was aware of the claimant trust expiration date at the time that they entered into the settlement agreement with Mr. Daugherty. All of that -- that agreement was already in place. They entered into a settlement agreement in which they had said they were going to stay all of this. And so if you're going to balance the equities here of, you know, a chance that Mr. Daugherty has additional exposure versus a potential windfall, you must err on the side of being the most conservative estimate at the end of the day.

THE COURT: Do you have any cases that stand for that proposition?

MR. YORK: I don't, Your Honor. I haven't been able to come across anything that is in this sort of a

context.

THE COURT: Okay.

MR. YORK: Finally, Your Honor --

THE COURT: One more question.

Mr. Morris argued that if I take what Mr. Liles-Tims says as correct, that you cannot estimate this claim at this time because of all these various out there. But I find that I have to estimate a claim. Do you agree that that means that I should be disallowing the claim?

MR. YORK: No, I do not.

THE COURT: Okay.

MR. YORK: Because Highland is the one that brought the cause of action, so the burden is on Highland.

THE COURT: Okay.

MR. YORK: Switching gears to the books and records provision for a second, Your Honor.

It is clear that Highland did not provide Mr. Daugherty everything that he was entitled to. And I appreciated your question to Mr. Morris about whether Highland is contending that anything that is maintained on Highland's system is Highland's and doesn't belong to HERA.

Let's be clear. Paragraph 8 of the parties' settlement agreement said that Highland would -- the transfer will include the HERA and ERA books and records, "maintained on HCMLP's system," on Highland's system. And that's the only

practical way it could have worked if HERA was simply a vessel and all of the Highland employees who were dealing with issues related to HERA and ERA were doing it on Highland's own servers.

And so what the Court should do, it should order specific performance. Order Highland to produce the communications, the emails, the invoices, everything relating to HERA and ERA that it has, because it no longer has that entity. And they can turn it over to Mr. Daugherty. And then we'll be done with that issue.

THE COURT: I'm going to ask you a question about that.

Who's going to oversee the performance of that? I heard today that a settlement was offered for them to have four custodians go about the process of doing that, which was rejected. So if the Court orders Highland, who has those four people to operate this search for these records and they go about doing it and they come back and they produce 100 documents, or 100 pages of documents, or whatever, how do I know -- how do we -- how do you all get comfortable with that was sufficient if you can't -- if you weren't even comfortable with their offer to do it already? I'm just trying to understand. Because I'm afraid that if I say, I order them to produce emails and they produce 100, or 10,000, or whatever the number is, that somebody doesn't come back

and say, nope, still more emails out there. We know it. How do I do it?

MR. YORK: Sure. So I think what you -- to go to the, one of the points you made about the prior discussions was about the number of custodians. And that's, I think, where a big issue lies. If -- I think the Court can put other parameters in place that don't have restrictions on custodians, but have other parameters in place that allow for searches to be run in a manner in which it would provide adequacy as to whether everything's been produced. It could also be done, theoretically, with the involvement of some, you know, outside forensic inspector -- inspection.

THE COURT: Who's paying for that?

MR. YORK: That would be up to the Court to decide at the end of the day.

THE COURT: Okay.

MR. YORK: Apparently my client says he will pay for it.

THE COURT: Keep going.

MR. YORK: So those are ways in which the concerns that you have can be resolved is having those parameters in place, having that forensic inspection done to ensure that everything has been adequately searched and adequately produced.

THE COURT: Okay.

MR. YORK: And that's all I had, Your Honor.
THE COURT: All right. Thank you.
MR. YORK: Thank you.
THE COURT: Mr. Morris, brief.
MR. MORRIS: Just really briefly.

I think your questions pointed to the problems here. There was never -- there was never an end and it ignores, I think, the plain and unambiguous statement in the agreement. Yes, maintained on Highland's system. That's why I asked the question if there are -- if the HERA and ERA books and records weren't on Highland's -- maintained on Highland's system, Highland wouldn't even have an obligation to produce that, if it wasn't maintained. So we all acknowledge the only place the obligation arises is if the HERA and ERA books and records are maintained. So there's no dispute about that. The only question I think Your Honor has to ask yourself is what is the -- what does the HERA and ERA books and records mean? And you have an enormous description of the information that we've provided. And I don't know what the contours are, what they're looking for. It's a moving target. It always has been a moving target. There's -- I think Your Honor put your finger right on it. How am I ever going to get to the end of this? And how can we assure ourselves that if we produce a piece of paper today and he loses his case tomorrow, that the next day he's not going to

turn around and sue us? Because that's just -- that's not acceptable. They're not -- we have produced the HERA and ERA books and records. It's really that simple.

You know, we made an offer to try to do it to resolve this thing. He wouldn't bite. Wouldn't even counter. And he sat on his hands for years, right, sat on his hands for years.

Thank you, Your Honor.

THE COURT: Thank you.

All right. I appreciate the parties. I appreciate the professionalism that was shown throughout the hearing by both counsel, as well as the witnesses. The Court is going to take this matter under advisement. I will ask -- I don't believe that as part of the pre-trial you all had any provision there regarding proposed findings of fact and conclusions of law. I'm going to ask that each side file proposed findings of fact and conclusions of law. And then I'll take it under advisement and issue a ruling.

MR. MORRIS: Your Honor, can I have an extended period of time to do that? I am going to be up all night again tonight. I've got other commitments that I have to do. I was not planning for this. I've got a two-day mediation in Los Angeles on the 5th and 6th. We've got the big hearing on the 11th. We've got a big hearing next Friday on the motion for protective order. Proposed findings of

fact and conclusions of law are substantial. We'll have to get the transcript. If Your Honor can wait six or eight weeks, I would be delighted to do that.

THE COURT: Okay. Mr. York, let me hear what you have to say to that. I mean, I understand, yes, we're going to be back here. We've got a hearing next Friday. We've got trial in the middle of May. So I understand the issue.

MR. YORK: I agree.

THE COURT: I mean, I can scratch -- I can scrap the proposed findings of fact and conclusions of law. I just often times like the parties to, you know, provide what they believe and we'll work off of that.

MR. YORK: What was Your Honor's intended time frame?

THE COURT: I don't know that I had one in mind. I was going to ask the parties. But I'm happy to give a month. But I'm also happy to give six weeks. You know, this is not going to be any decision I'm going to have out next week. Let me put it that way. So I don't have a problem with six weeks, if the parties are agreeable, or --

MR. MORRIS: Can we confer?

THE COURT: That's fine.

MR. MORRIS: And get back to you early in the week?

But where does six take us?

MR. YORK: End of May.

MR. MORRIS: Yeah, like a June 1st kind of time frame.

MR. YORK: That's fine with me, Your Honor.

THE COURT: Okay. Let me pull up the calendar.

MR. MORRIS: Yeah, June 1st.

THE COURT: How about I give the parties until June 5th, which is that Friday?

MR. MORRIS: Great.

THE COURT: Okay. So if you'll submit findings of fact -- proposed findings of fact and conclusions of law by June 5th.

MR. MORRIS: Perfect.

THE COURT: Okay. All right. Anything further?

MR. MORRIS: No, Your Honor.

MR. YORK: No, Your Honor.

THE COURT: All right. Thank you all.

MR. MORRIS: Thank you so much.

MR. YORK: We really appreciate it.

(End of Proceedings.)

CINDY SUMNER, CSR (214) 802-7196

C E R T I F I C A T E

I, CINDY SUMNER, do hereby certify that the foregoing constitutes a full, true, and complete transcription of the proceedings as heretofore set forth in the above-captioned and numbered cause in typewriting before me.

/s/Cindy Sumner

CINDY SUMNER, CSR #5832
Expires 10-31-2026
Cindy Sumner, CSR
5001 Vineyard Lane
McKinney, Texas 75070
214 802-7196