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

-----X	:	
<i>In re</i>	:	
	:	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	:	
	:	Case No. 19-34054-sgj11
Debtor.	:	
-----X	:	

**UBS'S MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL
WITH (I) THE OBJECTION AND (II) THE DECLARATION OF W. KEVIN
MOENTMANN IN SUPPORT OF THE OBJECTION TO THE DEBTOR'S MOTION
FOR ENTRY OF AN ORDER APPROVING SETTLEMENTS WITH (A) THE
REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND (CLAIM NO. 72),
AND**

¹ The Debtor's last four digits of its taxpayer identification number are 6725. The headquarters and service address for the Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



(B) THE HIGHLAND CRUSADER FUNDS (CLAIM NO. 81)

UBS Securities LLC and UBS AG, London Branch (together, “UBS”), by and through their undersigned counsel, respectfully submit this motion (the “Motion to Seal”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), granting UBS leave to file unredacted versions of (i) the *Objection to the Debtor’s Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81)* (the “Objection”), (ii) the *Declaration of W. Kevin Moentmann in Support of the Objection to the Debtor’s Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81)* (the “Declaration”), and (iii) certain exhibits to the Objection (the “Objection Exhibits”) and the Declaration (the “Declaration Exhibits”), under seal in this proceeding.

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion to Seal 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.

BACKGROUND

2. On October 16, 2019, the Debtor initiated this Chapter 11 Case.²

3. On January 22, 2020, this Court entered the *Agreed Protective Order* [Docket No. 382] to protect the confidentiality of documents and things exchanged in this Chapter 11 Case (the “Protective Order”). Under Section 5 of the Protective Order, parties can designate proprietary,

² Capitalized terms not otherwise defined herein shall have the definition ascribed to them in the Objection.

personal, commercial, financial, business, or otherwise sensitive materials as “Confidential” or “Highly Confidential” in this proceeding.

4. On April 3, 2020, Redeemer filed Proof of Claim No. 72 against the Debtor’s estate (the “Redeemer Claim”).

5. On April 6, 2020, Crusader filed Proof of Claim No. 81 against the Debtor’s estate (the “Crusader Claim”).

6. On September 23, 2020, the Debtor filed the *Debtor’s Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81)* [Docket No. 1089] (the “Motion”).

7. Also on September 23, 2020, the Debtor filed the *Declaration of John A. Morris in Support of the Debtor’s Motion for Entry of an Order Approving Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith* [Dkt. No. 1090]. The Motion seeks approval of a stipulation, attached as Exhibit 1 to the Morris Declaration [Dkt. No. 1090-1] (the “Proposed Settlement”).

8. On October 16, 2020, UBS filed the Objection and the Declaration. The Objection and the Declaration reference documents and include certain Objection Exhibits and Declaration Exhibits that were designated as “Confidential” or “Highly Confidential” under the Protective Order. UBS seeks to submit these documents to provide this Court with additional context around the Proposed Settlement, particularly regarding the valuation of the Cornerstone shares that the Proposed Settlement would allow Redeemer to retain, rather than tender to the Debtor’s estate in accordance with the Arbitration Award. These materials demonstrate that the Debtor has not met its burden of establishing that the Proposed Settlement is within the range of reasonable

alternatives leading to a fair and equitable compromise in the best interests of the estate. A brief description of the documents is as follows:

- Objection Exhibit A is the Debtor's Brief in Support of its Motion for Partial Vacatur filed in the Delaware Chancery Court;
- Objection Exhibit B is Alvarez's June 4, 2020 Presentation to Redeemer;
- Objection Exhibit C is Alvarez's August 6, 2020 Presentation to Redeemer;
- Declaration Exhibit 4 is Grant Thornton's set of alternative calculations of the value of Cornerstone shares;
- Declaration Exhibit 5 is a summary of inconsistencies between the Crusader Houlihan Valuation and Debtor Houlihan Valuation;
- Declaration Exhibit 6 is Grant Thornton's valuation of the Cornerstone shares as of June 30, 2020;
- Declaration Attachment A is the *Cornerstone Valuation Analysis as of March 31, 2020*, provided to Crusader by Houlihan Lokey;
- Declaration Attachment B is the *Cornerstone Valuation Analysis as of June 30, 2020*, provided to the Debtor by Houlihan Lokey ; and
- Declaration Attachment C is the *Cornerstone Valuation Analysis as of June 30, 2020*, provided to Crusader by Houlihan Lokey.

RELIEF REQUESTED

9. By this Motion to Seal, UBS respectfully requests entry of an order, substantially in the form of the Proposed Order, allowing UBS to file these materials under seal with this Court.

BASIS FOR RELIEF REQUESTED

10. The Bankruptcy Code, Bankruptcy Rules, and Local Rules for the Northern District of Texas Bankruptcy Court authorize the Court to limit the disclosure of confidential information. Pursuant to Rule 9018 of the Bankruptcy Rules, a party may move for such relief by filing a motion to protect "trade secret[s] or other confidential research, development, or commercial information." Rule 9018(1); *see also* 11 U.S.C. § 107(b)(1).

11. Rule 9077-1 of the Local Rules for the Northern District of Texas Bankruptcy Court provides that a “party may file under seal any document that a statute or rule requires or permits to be so filed.” L.B.R. 9077-1(a). When not provided for by a statute or rule, “a party may file a document under seal only on motion and by permission of the Presiding Judge.” L.B.R. 9077-1(b).

12. Certain portions of the Objection, the Declaration, Objection Exhibits, and Declaration Exhibits contain protectable information or were produced by the Debtor, Redeemer, or Crusader to UBS pursuant to the Protective Order. UBS has redacted only the portions of these materials that contain such information.

NOTICE

13. Notice of this Motion to Seal shall be provided to: (a) the Debtor; (b) counsel to the Debtor; (c) counsel to the Official Committee of Unsecured Creditors; (d) counsel to Redeemer; (e) counsel to Crusader; (f) the United States Trustee; and (g) those parties requesting notice pursuant to Local Bankruptcy Rule 2002. UBS respectfully submits that such notice is sufficient and that no further notice of this Motion to Seal is required.

CONCLUSION

UBS respectfully requests that the Court enter an order, substantially in the form of the Proposed Order, granting UBS leave to file unredacted versions of the Objection, the Declaration, and certain Objection Exhibits and Declaration Exhibits under seal.

DATED this 16th day of October, 2020.

LATHAM & WATKINS LLP

By /s/ Sarah Tomkowiak

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*Counsel for UBS Securities LLC and UBS
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CERTIFICATE OF SERVICE

I, Martin Sosland, certify that *UBS's Motion for Leave to File Documents under Seal with (I) the Objection and (II) the Declaration of W. Kevin Moentmann in Support of the Objection to the Debtor's Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81)* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: October 16, 2020.

/s/ Martin A. Sosland
MARTIN A. SOSLAND

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

-----	X	
<i>In re</i>	:	
	:	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ³	:	
	:	Case No. 19-34054-sgj11
Debtor.	:	
-----	X	

**ORDER GRANTING LEAVE FOR UBS TO FILE DOCUMENTS
UNDER SEAL WITH (I) THE OBJECTION AND (II) THE DECLARATION OF W.
KEVIN MOENTMANN IN SUPPORT OF THE OBJECTION TO THE DEBTOR'S
MOTION FOR ENTRY OF AN ORDER APPROVING SETTLEMENTS WITH (A) THE
REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND (CLAIM NO. 72),
AND (B) THE HIGHLAND CRUSADER FUNDS (CLAIM NO. 81)**

Upon consideration of the *Motion for Leave to File Documents under Seal with (I) the Objection and (II) the Declaration of W. Kevin Moentmann in Support of the Objection to the Debtor's Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee*

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*of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81) (the “Motion to Seal”)*⁴ filed by UBS Securities LLC and UBS AG, London Branch (together, “UBS”); and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue of this proceeding and the Motion to Seal is proper in this District pursuant to 28 U.S.C. §§ 1408-1409; and due, adequate, and sufficient notice of the Motion to Seal having been given; and having determined that the legal and factual bases set forth in the Motion to Seal establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor it is hereby:

ORDERED that the Motion to Seal is granted.

It is FURTHER ORDERED that an unredacted version of the Objection and the Declaration may be filed under seal, along with the following exhibits also filed under seal: (1) Objection Exhibit A, Debtor Brief to Vacate; (2) Objection Exhibit B, 6/4/20 Presentation; (3) Objection Exhibit C, 8/6/20 Presentation; (4) Declaration Exhibit 4, Grant Thornton’s alternative Cornerstone calculations; (5) Declaration Exhibit 5, Summary of Houlihan Valuation inconsistencies; (6) Declaration Exhibit 6, Grant Thornton’s Cornerstone valuation; (7) Declaration Attachment A, Crusader Houlihan March Valuation; (8) Declaration Attachment B, Debtor Houlihan June Valuation; and (9) Declaration Attachment C, Crusader Houlihan June Valuation.

End of Order

⁴ Capitalized terms used herein but not defined shall have the meanings ascribed to them in the Motion to Seal.

Order prepared by:

BUTLER SNOW LLP

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