

# CLO EXHIBIT 1



1934054210122000000000015

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)

Ira D. Kharasch (CA Bar No. 109084) (*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 & ASSOCIATES 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 the Debtor and Debtor-in-Possession*

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

---

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Debtor.

---

)  
) Chapter 11  
)  
) Case No. 19-34054-sgj11  
)  
)  
)  
)

**NOTICE OF (I) EXECUTORY CONTRACTS  
AND UNEXPIRED LEASES TO BE ASSUMED BY THE  
DEBTOR PURSUANT TO THE FIFTH AMENDED PLAN, (II) CURE AMOUNTS,  
IF ANY, AND (III) RELATED PROCEDURES IN CONNECTION THEREWITH**

**PLEASE TAKE NOTICE THAT** on November 24, 2020, the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) entered an order [Docket No. 1476] (the “Disclosure Statement Order”) that, among other things: (a) approved the *Disclosure Statement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*

---

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

(the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125(a) of the title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”); and (b) authorized the above-captioned debtor and debtor-in-possession (the “Debtor”) to solicit acceptances of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1472] (the “Plan”).<sup>2</sup>

**PLEASE TAKE FURTHER NOTICE THAT** the hearing at which the Court will consider Confirmation of the Plan (the “Confirmation Hearing”) will commence on January 13, 2021 at 9:30 a.m. prevailing Central Time, before The Honorable Stacey G. C. Jernigan in the United States Bankruptcy Court for the Northern District of Texas (Dallas Division), located at Earle Cabell Federal Building, 1100 Commerce Street, 14th Floor, Courtroom No. 1, Dallas, TX 75242-1496. The deadline for filing objections to the Plan is January 5, 2021, at 5:00 p.m., prevailing Central Time (the “Confirmation Objection Deadline”). Any objection to the Plan must: (a) be in writing; (b) comply with the Federal Rules of Bankruptcy Procedure and the Bankruptcy Local Rules for the Northern District of Texas; (c) state, with particularity, the name and address of the objecting party, the basis and nature of any objection to the Plan, and, if practicable, a proposed modification to the Plan that would resolve such objection; and (d) be filed with the Court on or before the Confirmation Objection Deadline.

**PLEASE TAKE FURTHER NOTICE THAT** you are receiving this notice because the Debtor’s records reflect that you are a party to a contract to be assumed by the Debtor pursuant to the Plan Supplement [Docket No. 1606] filed on December 18, 2020. Therefore, you are advised to review carefully the information contained in this notice and the related provisions of the Plan.

**PLEASE TAKE FURTHER NOTICE THAT** the Debtor is proposing to assume your Executory Contract(s) and Unexpired Lease(s), listed in Schedule A attached hereto, to which you are a party.<sup>3</sup>

**PLEASE TAKE FURTHER NOTICE THAT** section 365(b)(1) of the Bankruptcy Code requires a chapter 11 debtor to cure, or provide adequate assurance that it will promptly cure, any defaults under executory contracts and unexpired leases at the time of assumption. Accordingly, the Debtor has conducted a thorough review of its books and records and has determined the amounts required to cure defaults, if any, under the Executory Contract(s) and Unexpired Lease(s), which amounts are listed in the table on Schedule A attached hereto. Please note that if no amount is stated for a particular Executory Contract or Unexpired Lease, the Debtor believes that there is no cure amount outstanding for such contract or lease.

**PLEASE TAKE FURTHER NOTICE THAT**, absent any pending dispute, the monetary amounts required to cure any existing defaults arising under the Executory Contract(s)

---

<sup>2</sup> Capitalized terms not defined herein shall have the same meaning as ascribed in the Plan.

<sup>3</sup> Nothing contained in the Plan or the Debtor’s schedule of assets and liabilities shall constitute an admission by the Debtor that any such contract or lease is in fact an Executory Contract or Unexpired Lease capable of assumption that the Debtor or the Reorganized Debtor(s) has any liability thereunder, or that such Executory Contract or Unexpired Lease is necessarily a binding and enforceable agreement. Further, the Debtor expressly reserves the right to remove any Executory Contract or Unexpired Lease from assumption by the Debtor and reject such Executory Contract or Unexpired Lease pursuant to the terms of the Plan.

and Unexpired Lease(s) identified on **Schedule A** attached hereto will be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by the Debtor in Cash on the Effective Date or as soon as reasonably practicable thereafter. In the event of a dispute, however, payment of the cure amount would be made following the entry of a final order(s) resolving the dispute and approving the assumption. If an objection to the proposed assumption or related cure amount is sustained by the Court, however, the Debtor may elect to reject such Executory Contract or Unexpired Lease in lieu of assuming it.

**PLEASE TAKE FURTHER NOTICE THAT** the deadline for filing objections to the assumption of an Executory Contract or Unexpired Lease is **January 11, 2021, at 5:00 p.m.**, prevailing Central Time. Any objection to the assumption of your Executory Contract or Unexpired Lease must: (a) be in writing; (b) comply with the Federal Rules of Bankruptcy Procedure and the Bankruptcy Local Rules for the Northern District of Texas; (c) state, with particularity, the name and address of the objecting party, the basis and nature of any objection the assumption of the Executory Contract or Unexpired Lease, and, if practicable, a proposed modification such proposed assumption that would resolve such objection; (d) be served on counsel for the Debtor set forth in the signatory block below; and (e) be filed with the Court on or before January 11, 2021 at 5:00 p.m. prevailing Central Time.

**PLEASE TAKE FURTHER NOTICE THAT** any objections to the Plan in connection with the assumption of the Executory Contract(s) and Unexpired Lease(s) proposed in connection with the Plan that remain unresolved as of the Confirmation Hearing will be heard at the first omnibus hearing following the Confirmation Hearing (or such other date as fixed by the Court).

<p><b>PLEASE TAKE FURTHER NOTICE THAT ANY COUNTERPARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE THAT FAILS TO OBJECT TIMELY TO EITHER THE PROPOSED ASSUMPTION OF SUCH CONTRACT OR LEASE OR THE CURE AMOUNT WILL BE DEEMED TO HAVE ASSENTED TO SUCH ASSUMPTION AND CURE AMOUNT.</b></p>
---

**PLEASE TAKE FURTHER NOTICE THAT ASSUMPTION OF ANY EXECUTORY CONTRACT OR UNEXPIRED LEASE PURSUANT TO THE PLAN OR OTHERWISE SHALL RESULT IN THE FULL RELEASE AND SATISFACTION OF ANY CLAIMS OR DEFAULTS, WHETHER MONETARY OR NONMONETARY, INCLUDING DEFAULTS OF PROVISIONS RESTRICTING THE CHANGE IN CONTROL OR OWNERSHIP INTEREST COMPOSITION OR OTHER BANKRUPTCY-RELATED DEFAULTS, ARISING UNDER ANY ASSUMED EXECUTORY CONTRACT OR UNEXPIRED LEASE AT ANY TIME BEFORE THE DATE THE DEBTOR OR REORGANIZED DEBTOR ASSUMES SUCH EXECUTORY CONTRACT OR UNEXPIRED LEASE. ANY PROOFS OF CLAIM FILED WITH RESPECT TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE THAT HAS BEEN ASSUMED SHALL BE DEEMED DISALLOWED AND EXPUNGED, WITHOUT FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT.**

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a copy of the

Disclosure Statement Order, Disclosure Statement, the Plan, the Plan Supplement, or related documents, you may: (a) access the Debtor's restructuring website at <http://www.kccllc.net/hcmlp>; (b) write to HCMLP Ballot Processing Center, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; (c) call toll free: (877) 573-3984 or international: (310) 751-1829 and request to speak with a member of the Solicitation Group; or (d) email HighlandInfo@kccllc.com and reference "Highland" in the subject line. You may also obtain copies of any pleadings filed in this case for a fee via PACER at: [pacer.uscourts.gov](http://pacer.uscourts.gov).

Alternatively, you can obtain a copy of these documents by contacting counsel for the Debtor (a) by e-mail, at [gdemo@pszjlaw.com](mailto:gdemo@pszjlaw.com), (b) by telephone, by contacting Gregory Demo at (212) 561-7700, or (c) by mail, at Pachulski Stang Ziehl & Jones LLP, Attn: Gregory Demo, 780 Third Avenue, 34<sup>th</sup> Floor, New York, NY 10017. Please specify whether you would like to receive copies of these documents by (i) **e-mail transmission** (in which case, please include your e-mail address), (ii) on a **CD-ROM or flash drive** delivered by return mail, or (iii) in **paper copies** delivered by return mail.

<p><b>THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS WITH RESPECT TO YOUR RIGHTS UNDER THE PLAN OR ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, CONTACT THE SOLICITATION AGENT.</b></p>
---

Dated: December 30, 2020.

**PACHULSKI STANG ZIEHL & JONES LLP**

Jeffrey N. Pomerantz (CA Bar No.143717)  
Ira D. Kharasch (CA Bar No. 109084)  
Gregory V. Demo (NY Bar No. 5371992)  
10100 Santa Monica Boulevard, 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Email: jpomrantz@pszjlaw.com  
ikharasch@pszjlaw.com  
gdemo@pszjlaw.com

-and-

**HAYWARD & ASSOCIATES 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 the Debtor and Debtor-in-Possession*

**Schedule A**

**Schedule of Assumed Contracts and Leases and Proposed Cure**

<b>Debtor</b>	<b>Counterparty</b>	<b>Description of Assumed Contracts or Leases</b>	<b>Cure</b>
Highland Capital Management, L.P.	Aberdeen Loan Funding Ltd. Attn: The Directors	Servicing Agreement	0.00
Highland Capital Management, L.P.	AT&T Corp. Attn: Peter Davis	Managed Internet Service	927.16
Highland Capital Management, L.P.	Bank of New York Mellon Trust Company Attn: Corporate Trust	Letter Agreement	0.00
Highland Capital Management, L.P.	Bank of New York Mellon Trust Company	Electronic Communications	0.00
Highland Capital Management, L.P.	Brentwood CLO Ltd. Attn: The Directors	Servicing Agreement	0.00
Highland Capital Management, L.P.	Carey International, Inc. Attn: Gary Kessler	Advisory Services Agreement	0.00
Highland Capital Management, L.P.	CCS Medical, Inc. Attn: Steve Saft	Advisory Services Agreement	0.00
Highland Capital Management, L.P.	Citibank N.A. Attn: Doug Warren	Reference Portfolio Management Agreement	0.00
Highland Capital Management, L.P.	Cornerstone Healthcare Group Holding, Inc. Attn: David Smith	Amended and Restated Advisory Services Agreement	0.00
Highland Capital Management, L.P.	Crescent Investors LP Attn: Property Manager	Office Lease	0.00
Highland Capital Management, L.P.	Eastland CLO Ltd. Attn: The Directors	Servicing Agreement	0.00
Highland Capital Management, L.P.	Falcon E&P Opportunities GP, LLC Attn: Marc Manzo	Amended and Restated Shared Services Agreement	0.00
Highland Capital Management, L.P.	FTI Consulting Inc. Attn: Ronald Greenspan	Letter Agreement	0.00
Highland Capital Management, L.P.	Gleneagles CLO, Ltd. Attn: The Directors	Portfolio Management Agreement	0.00
Highland Capital Management, L.P.	Grayson CLO Ltd. Attn: The Directors	Servicing Agreement	0.00
Highland Capital Management, L.P.	Greenbriar CLO, Ltd. Attn: The Directors	Servicing Agreement	0.00
Highland Capital Management, L.P.	Highland Capital Multi-Strategy Fund LP	Investment Management Agreement	0.00
Highland Capital Management, L.P.	Highland Capital Multi-Strategy Master Fund LP	Investment Management Agreement	0.00



<b>Debtor</b>	<b>Counterparty</b>	<b>Description of Assumed Contracts or Leases</b>	<b>Cure</b>
Highland Capital Management, L.P.	Highland Credit Opportunities CDO Ltd.	Collateral Management Agreement	0.00
Highland Capital Management, L.P.	Highland HCF Advisors, Ltd.	Shared Services Agreement	0.00
Highland Capital Management, L.P.	Highland HCF Advisors, Ltd.	Sub-advisory Agreement	0.00
Highland Capital Management, L.P.	Highland Legacy Limited Attn: Suzanne St. Thomas	Collateral Management Agreement	0.00
Highland Capital Management, L.P.	Highland Loan Funding V Ltd. Attn: The Directors	Collateral Management Agreement	0.00
Highland Capital Management, L.P.	Highland Multi Strategy Credit Fund Ltd., Highland Multi Strategy Credit Fund LP	Third Amended & Restated Investment Management Agreement	0.00
Highland Capital Management, L.P.	Highland Park CDO I, Ltd. Attn: The Directors	Collateral Servicing Agreement	0.00
Highland Capital Management, L.P.	Highland Prometheus Master Fund LP, Highland Prometheus Feeder Fund I LP, Highland Prometheus Feeder Fund II LP, Highland SumBridge GP LLC	Amended & Restated Investment Management Agreement	0.00
Highland Capital Management, L.P.	Highland Restoration Capital Partners LP, Highland Restoration Capital Partners Offshore LP, Highland Restoration Capital Partners Master LP, Highland Capital Partners GP LLC	Management Agreement	0.00
Highland Capital Management, L.P.	Highland Select Equity Master Fund LP, High Select Equity Fund GP LP	Investment Management Agreement	0.00
Highland Capital Management, L.P.	Jaspar CLO Ltd. Attn: The Directors	Amended & Restated Portfolio Management Agreement	0.00
Highland Capital Management, L.P.	Jefferies LLC Attn: Chris Bianchi	Prime Brokerage Agreement	0.00
Highland Capital Management, L.P.	Liberty CLO, Ltd. Attn: The Directors	Portfolio Management Agreement	0.00
Highland Capital Management, L.P.	Liberty Life Assurance Company of Boston	Administrative Services Agreement	0.00
Highland Capital Management, L.P.	Longhorn Credit Funding, LLC Attn: Secretary	Investment Management Agreement	0.00
Highland Capital Management, L.P.	Paylocity Corporation	Corporation Services Agreement	0.00

Debtor	Counterparty	Description of Assumed Contracts or Leases	Cure
Highland Capital Management, L.P.	Petrocap Partners II GP LLC Attn: William L. Britain	Amended and Restated Administrative Services Agreement	0.00
Highland Capital Management, L.P.	Red River CLO Ltd. Attn: The Directors	Servicing Agreement	0.00
Highland Capital Management, L.P.	Rockwall CDO II Ltd. Attn: The Directors	Servicing Agreement	0.00
Highland Capital Management, L.P.	Rockwall CDO II Ltd. Attn: The Directors	Servicing Agreement	0.00
Highland Capital Management, L.P.	Southfork CLO Ltd. Attn: The Directors	Portfolio Management Agreement	0.00
Highland Capital Management, L.P.	Stratford CLO Ltd. Attn: The Directors	Servicing Agreement	0.00
Highland Capital Management, L.P.	SunTrust Robinson Humphrey Inc. Attn: Documentation	Electronic Trading Services Agreement	0.00
Highland Capital Management, L.P.	Trussway Holdings, Inc. Attn: Kendall Hoyd	Amended and Restated Advisory Services Agreement	0.00
Highland Capital Management, L.P.	Valhalla CLO, Ltd. Attn: The Directors	Reference Portfolio Management Agreement	0.00
Highland Capital Management, L.P.	ViaWest Attn:	Master Service Agreement	0.00
Highland Capital Management, L.P.	ViaWest Attn: John Greenwood	Master Service Agreement	0.00
Highland Capital Management, L.P.	Walkers Fund Services Limited	Management Agreement	0.00
Highland Capital Management, L.P.	Westchester CLO, Ltd. Attn: The Directors	Servicing Agreement	0.00

## **CLO EXHIBIT 2**

PACHULSKI STANG ZIEHL & JONES LLP  
 Jeffrey N. Pomerantz (CA Bar No.143717) (*admitted pro hac vice*)  
 Ira D. Kharasch (CA Bar No. 109084) (*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 the Debtor and Debtor-in-Possession*

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Debtor.

)  
 ) Chapter 11  
 )  
 ) Case No. 19-34054-sgj11  
 )  
 )  
 )

**SECOND<sup>2</sup> NOTICE OF (I) EXECUTORY CONTRACTS  
 AND UNEXPIRED LEASES TO BE ASSUMED BY THE  
 DEBTOR PURSUANT TO THE FIFTH AMENDED PLAN, (II) CURE AMOUNTS,  
 IF ANY, AND (III) RELATED PROCEDURES IN CONNECTION THEREWITH**

**PLEASE TAKE NOTICE THAT** on November 24, 2020, the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) entered an order [Docket No. 1476] (the “Disclosure Statement Order”) that, among other things: (a) approved the *Disclosure*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>2</sup> This Second Notice identifies executory contracts and unexpired leases to be assumed *in addition* to any executory contracts and unexpired leases identified previously in Docket No. 1648.

*Statement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125(a) of the title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”); and (b) authorized the above-captioned debtor and debtor-in-possession (the “Debtor”) to solicit acceptances of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1472] (the “Plan”).<sup>3</sup>

**PLEASE TAKE FURTHER NOTICE THAT** the hearing at which the Court will consider Confirmation of the Plan (the “Confirmation Hearing”) will commence on January 26, 2021 at 9:30 a.m. prevailing Central Time, before The Honorable Stacey G. C. Jernigan, in the United States Bankruptcy Court for the Northern District of Texas (Dallas Division), located at Earle Cabell Federal Building, 1100 Commerce Street, 14th Floor, Courtroom No. 1, Dallas, TX 75242-1496. The deadline for filing objections to the Plan was January 5, 2021, at 5:00 p.m., prevailing Central Time.

**PLEASE TAKE FURTHER NOTICE THAT** you are receiving this notice because the Debtor’s records reflect that you are a party to a contract to be assumed by the Debtor pursuant to the Plan Supplement [Docket No. 1606] filed on December 18, 2020. Therefore, you are advised to review carefully the information contained in this notice and the related provisions of the Plan.

**PLEASE TAKE FURTHER NOTICE THAT** the Debtor is proposing to assume your Executory Contract(s) and Unexpired Lease(s), listed in Schedule A attached hereto, to which you are a party.<sup>4</sup>

**PLEASE TAKE FURTHER NOTICE THAT** section 365(b)(1) of the Bankruptcy Code requires a chapter 11 debtor to cure, or provide adequate assurance that it will promptly cure, any defaults under executory contracts and unexpired leases at the time of assumption. Accordingly, the Debtor has conducted a thorough review of its books and records and has determined the amounts required to cure defaults, if any, under the Executory Contract(s) and Unexpired Lease(s), which amounts are listed in the table on Schedule A attached hereto. Please note that if no amount is stated for a particular Executory Contract or Unexpired Lease, the Debtor believes that there is no cure amount outstanding for such contract or lease.

**PLEASE TAKE FURTHER NOTICE THAT**, absent any pending dispute, the monetary amounts required to cure any existing defaults arising under the Executory Contract(s) and Unexpired Lease(s) identified on Schedule A attached hereto will be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by the Debtor in Cash on the Effective Date or as soon as reasonably practicable thereafter. In the event of a dispute, however, payment of the cure amount would be made following the entry of a final order(s) resolving the dispute and approving the assumption. If an objection to the proposed assumption or related cure amount is sustained by the

<sup>3</sup> Capitalized terms not defined herein shall have the same meaning as ascribed in the Plan.

<sup>4</sup> Nothing contained in the Plan or the Debtor’s schedule of assets and liabilities shall constitute an admission by the Debtor that any such contract or lease is in fact an Executory Contract or Unexpired Lease capable of assumption that the Debtor or the Reorganized Debtor(s) has any liability thereunder, or that such Executory Contract or Unexpired Lease is necessarily a binding and enforceable agreement. Further, the Debtor expressly reserves the right to remove any Executory Contract or Unexpired Lease from assumption by the Debtor and reject such Executory Contract or Unexpired Lease pursuant to the terms of the Plan.

Court, however, the Debtor may elect to reject such Executory Contract or Unexpired Lease in lieu of assuming it.

**PLEASE TAKE FURTHER NOTICE THAT** the deadline for filing objections to the assumption of an Executory Contract or Unexpired Lease is **January 20, 2021, at 5:00 p.m.**, prevailing Central Time. Any objection to the assumption of your Executory Contract or Unexpired Lease must: (a) be in writing; (b) comply with the Federal Rules of Bankruptcy Procedure and the Bankruptcy Local Rules for the Northern District of Texas; (c) state, with particularity, the name and address of the objecting party, the basis and nature of any objection the assumption of the Executory Contract or Unexpired Lease, and, if practicable, a proposed modification such proposed assumption that would resolve such objection; (d) be served on counsel for the Debtor set forth in the signatory block below; and (e) be filed with the Court on or before January 20, 2021 at 5:00 p.m. prevailing Central Time.

**PLEASE TAKE FURTHER NOTICE THAT** any objections to the Plan in connection with the assumption of the Executory Contract(s) and Unexpired Lease(s) proposed in connection with the Plan that remain unresolved as of the Confirmation Hearing will be heard at the first omnibus hearing following the Confirmation Hearing (or such other date as fixed by the Court).

<p><b>PLEASE TAKE FURTHER NOTICE THAT ANY COUNTERPARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE THAT FAILS TO OBJECT TIMELY TO EITHER THE PROPOSED ASSUMPTION OF SUCH CONTRACT OR LEASE OR THE CURE AMOUNT WILL BE DEEMED TO HAVE ASSENTED TO SUCH ASSUMPTION AND CURE AMOUNT.</b></p>
---

**PLEASE TAKE FURTHER NOTICE THAT ASSUMPTION OF ANY EXECUTORY CONTRACT OR UNEXPIRED LEASE PURSUANT TO THE PLAN OR OTHERWISE SHALL RESULT IN THE FULL RELEASE AND SATISFACTION OF ANY CLAIMS OR DEFAULTS, WHETHER MONETARY OR NONMONETARY, INCLUDING DEFAULTS OF PROVISIONS RESTRICTING THE CHANGE IN CONTROL OR OWNERSHIP INTEREST COMPOSITION OR OTHER BANKRUPTCY-RELATED DEFAULTS, ARISING UNDER ANY ASSUMED EXECUTORY CONTRACT OR UNEXPIRED LEASE AT ANY TIME BEFORE THE DATE THE DEBTOR OR REORGANIZED DEBTOR ASSUMES SUCH EXECUTORY CONTRACT OR UNEXPIRED LEASE. ANY PROOFS OF CLAIM FILED WITH RESPECT TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE THAT HAS BEEN ASSUMED SHALL BE DEEMED DISALLOWED AND EXPUNGED, WITHOUT FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT.**

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a copy of the Disclosure Statement Order, Disclosure Statement, the Plan, the Plan Supplement, or related documents, you may: (a) access the Debtor's restructuring website at <http://www.kccllc.net/hcmlp>; (b) write to HCMLP Ballot Processing Center, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; (c) call toll free: (877) 573-3984 or international: (310) 751-1829 and request to speak with a member of the Solicitation Group; or (d) email [HighlandInfo@kccllc.com](mailto:HighlandInfo@kccllc.com) and reference "Highland" in the subject line. You may also obtain copies of any pleadings filed in this case for a fee via PACER at: [pacer.uscourts.gov](http://pacer.uscourts.gov).

Alternatively, you can obtain a copy of these documents by contacting counsel for the Debtor (a) by e-mail, at [gdemo@pszjlaw.com](mailto:gdemo@pszjlaw.com), (b) by telephone, by contacting Gregory Demo at (212) 561-7700, or (c) by mail, at Pachulski Stang Ziehl & Jones LLP, Attn: Gregory Demo, 780 Third Avenue, 34<sup>th</sup> Floor, New York, NY 10017. Please specify whether you would like to receive copies of these documents by (i) **e-mail transmission** (in which case, please include your e-mail address), (ii) on a **CD-ROM or flash drive** delivered by return mail, or (iii) in **paper copies** delivered by return mail.

**THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS WITH RESPECT TO YOUR RIGHTS UNDER THE PLAN OR ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, CONTACT THE SOLICITATION AGENT.**

Dated: January 11, 2021

**PACHULSKI STANG ZIEHL & JONES LLP**

Jeffrey N. Pomerantz (CA Bar No.143717)  
Ira D. Kharasch (CA Bar No. 109084)  
Gregory V. Demo (NY Bar No. 5371992)  
10100 Santa Monica Boulevard, 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Email: [jpomerantz@pszjlaw.com](mailto:jpomerantz@pszjlaw.com)  
[ikharasch@pszjlaw.com](mailto:ikharasch@pszjlaw.com)  
[gdemo@pszjlaw.com](mailto:gdemo@pszjlaw.com)

-and-

**HAYWARD PLLC**

*/s/ Zachery Z. Annable*

---

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

*Counsel for the Debtor and Debtor-in-Possession*

**Schedule A**

**Schedule of Assumed Contracts and Leases and Proposed Cure**



<b>Debtor</b>	<b>Counterparty</b>	<b>Description of Assumed Contracts or Leases</b>	<b>Cure</b>
Highland Capital Management, L.P.	American Banknote Corporation Attn: Patrick J. Gentile	Stockholders' Agreement	0.00
Highland Capital Management, L.P.	Carey Holdings, Inc. Attn: General Counsel	Stockholders' Agreement and Amendment No. 1	0.00
Highland Capital Management, L.P.	Cornerstone Healthcare Group Holding, Inc. Attn: Michael Brohm	Stockholders' Agreement and Amendment	0.00
Highland Capital Management, L.P.	Highland CLO Funding, Ltd.	Members' Agreement and Amendment	0.00
Highland Capital Management, L.P.	Progenics Pharmaceuticals, Inc. Attn: CEO	Stock Purchase and Sale Agreement and Amendment	0.00
Highland Capital Management, L.P.	JHT Holdings, Inc. Attn: Christopher Reehl	Stockholders' Agreement and Amendments	0.00
Highland Capital Management, L.P.	Highland Dynamic Income Fund GP, LLC	Amended and Restated Limited Partnership Agreement of Highland Dynamic Income Fund, L.P.	0.00
Highland Capital Management, L.P.	Highland Multi-Strategy Fund GP, L.P. James Dondero	Highland Multi-Strategy Fund, L.P. Limited Partnership Agreement	0.00
Highland Capital Management, L.P.	ENA Capital, LLC Ellman Management Group, Inc. Attn: Steve Ellman and Bob Kauffman	Operating Agreement of HE Capital, LLC First Amendment Second Amendment	0.00
Highland Capital Management, L.P.	Highland Multi-Strategy Master Fund, L.P.	Limited Liability Company Agreement of Highland Multi-Strategy Onshore Master SubFund II, LLC	0.00
Highland Capital Management, L.P.	Highland Multi-Strategy Master Fund, L.P.	Limited Liability Company Agreement of Highland Multi-Strategy Onshore Master SubFund, LLC	0.00
Highland Capital Management, L.P.	Highland Capital Management, L.P.	Limited Liability Company Agreement of Highland Receivables Finance 1, LLC	0.00
Highland Capital Management, L.P.	Highland Restoration Capital Partners GP, LLC	Agreement of Limited Partnership of Highland Restoration Capital Partners, L.P. and Amendments	0.00
Highland Capital Management, L.P.	Highland Select Equity Fund GP, LLC	Agreement of Limited Partnership of Highland Select Equity Fund GP, L.P.	0.00
Highland Capital Management, L.P.	Penant Management GP, LLC	Agreement of Limited Partnership of Penant Management LP	0.00

Debtor	Counterparty	Description of Assumed Contracts or Leases	Cure
Highland Capital Management, L.P.	Petrocap Incentive Partners III GP, LLC Petrocap Incentive Holdings III, LP Attn: Lee Britain	Agreement of Limited Partnership of Petrocap Incentive Partners III, LP	0.00
Highland Capital Management, L.P.	Petrocap Partners II GP, LLC Petrocap Incentive Partners II, LP	Amended and Restated Agreement of Limited Partnership of Petrocap Partners II, LP	0.00
Highland Capital Management, L.P.	Highland Credit Opportunities CDO GP, LLC	Agreement of Limited Partnership of Highland Credit Opportunities CDO GP, L.P.	0.00
Highland Capital Management, L.P.	Highland Multi Strategy Credit Fund GP, L.P.	Fourth Amended and Restated Limited Partnership Agreement of Highland Multi Strategy Credit Fund, L.P.	0.00
Highland Capital Management, L.P.	DUO Security	2 factor authentication	0.00
Highland Capital Management, L.P.	GoDaddy	Domain Registrations	0.00
Highland Capital Management, L.P.	Highland Loan Fund, Ltd. et al	Investment Management Agreement	0.00
Highland Capital Management, L.P.	Mxtoolbox	E Mailflow Monitoring	0.00
Highland Capital Management, L.P.	Onelogin	Cloud single sign on for HR related employee login	0.00
Highland Capital Management, L.P.	Pam Capital Funding LP/Ranger Asset Mgt LP	Collateral Management Agreement	0.00
Highland Capital Management, L.P.	Pamco Cayman Ltd./Ranger Asset Mgt LP	Collateral Management Agreement	0.00
Highland Capital Management, L.P.	Red River CLO Ltd. et al	Amendment No. 1 to Servicing Agreement	0.00
Highland Capital Management, L.P.	Rockwall CDO Ltd.	Interim Collateral Management Agreement	0.00
Highland Capital Management, L.P.	Rockwall CDO Ltd.	Amendment No. 1 to Servicing Agreement	0.00
Highland Capital Management, L.P.	Strand Advisors Inc.	4th Amended & Restated Agreement of Ltd Partnership of HCMLP	0.00
Highland Capital Management, L.P.	Highland Park CDO I, Ltd. The Bank of New York Trust Company, National Association	Collateral Administration Agreement	0.00

Debtor	Counterparty	Description of Assumed Contracts or Leases	Cure
Highland Capital Management, L.P.	Highland Park CDO I, Ltd.	Representations and Warranties Agreement	0.00
Highland Capital Management, L.P.	Aberdeen Loan Funding, Ltd. and State Street Bank and Trust Company	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Greenbriar CLO, Ltd. and State Street Bank and Trust Company	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Eastland CLO, Ltd.	Collateral Acquisition Agreement	0.00
Highland Capital Management, L.P.	Eastland CLO, Ltd. and Investors Bank and Trust Company	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Grayson CLO, Ltd.	Collateral Acquisition Agreement	0.00
Highland Capital Management, L.P.	Grayson CLO, Ltd.; Investors Bank & Trust Company	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Red River CLO, Ltd.	Collateral Acquisition Agreement	0.00
Highland Capital Management, L.P.	Red River CLO, Ltd.; U.S. Bank National Association	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Red River CLO Ltd.; Highland Special Opportunities Holding Company	Master Warehousing and Participation Agreement	0.00
Highland Capital Management, L.P.	Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.	Master Warehousing and Participation Agreement	0.00
Highland Capital Management, L.P.	Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.	Master Warehousing and Participation Agreement (Amendment No. 2)	0.00
Highland Capital Management, L.P.	Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.	Master Warehousing and Participation Agreement (Amendment No. 1)	0.00
Highland Capital Management, L.P.	Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.	Master Warehousing and Participation Agreement (Amendment No. 3)	0.00
Highland Capital Management, L.P.	Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.	Master Warehousing and Participation Agreement (Amendment No. 4)	0.00

Debtor	Counterparty	Description of Assumed Contracts or Leases	Cure
Highland Capital Management, L.P.	Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Red River CLO Ltd.; Grand Central Asset Trust	Master Participation Agreement	0.00
Highland Capital Management, L.P.	Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.	A&R Asset Acquisition Agreement	0.00
Highland Capital Management, L.P.	Salomon Brothers Holding Company, Highland Loan Funding V Ltd.	A&R Master Participation Agreement	0.00
Highland Capital Management, L.P.	Jasper CLO Ltd.	Collateral Acquisition Agreement	0.00
Highland Capital Management, L.P.	Jasper CLO Ltd.; JPMorgan Chase Bank, National Association	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.	Master Warehousing and Participation Agreement	0.00
Highland Capital Management, L.P.	Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.	Master Warehousing and Participation Agreement (Amendment No. 1)	0.00
Highland Capital Management, L.P.	Highland CDO Opportunity Fund, Ltd.; IXIS Financial Products Inc.; JPMorgan Chase Bank, National Association	Loan and Security Agreement	0.00
Highland Capital Management, L.P.	Highland CDO Opportunity Fund, Ltd.; JPMorgan Chase Bank, National Association	Securities Account Control Agreement	0.00
Highland Capital Management, L.P.	Liberty CLO Ltd.	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Rockwall CDO Ltd; JPMorgan Chase Bank, National Association	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Rockwall CDO II, Ltd.; Investors Bank & Trust Company	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Southfork CLO Ltd.; JPMorgan Chase Bank, National Association	Collateral Administration Agreement	0.00
Highland Capital	Stratford CLO Ltd.; State Street	Collateral Administration Agreement	0.00

Debtor	Counterparty	Description of Assumed Contracts or Leases	Cure
Management, L.P.	Bank and Trust Company		
Highland Capital Management, L.P.	Valhalla CLO, Ltd.; JPMorgan Chase Bank	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Citigroup Financial Products Inc.; Citigroup Global Markets Inc.	Extension/Buy-Out Agreement	0.00
Highland Capital Management, L.P.	Highland CDO and Structured Products Fund, Ltd.; Citigroup Financial Products Inc.; JPMorgan Chase Bank	Loan and Security Agreement	0.00
Highland Capital Management, L.P.	Westchester CLO, Ltd.	Collateral Acquisition Agreement	0.00
Highland Capital Management, L.P.	Westchester CLO, Ltd.; Investors Bank & Trust Company	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	Brentwood CLO, Ltd.; Investors Bank & Trust Company	Collateral Administration Agreement	0.00
Highland Capital Management, L.P.	CenturyLink Communications, LLC	Order Addenda	0.00
Highland Capital Management, L.P.	Intex Solutions, Inc.	Service Agreement (as amended)	0.00

## **CLO EXHIBIT 12**



K&L GATES

December 22, 2020

A. Lee Hogewood, III  
Lee.hogewood@klgates.com

T: 1-919-743-7306

Jeffrey N. Pomerantz  
Ira D. Kharasch  
John A. Morris  
Gregory V. Demo  
Hayley R. Winograd  
Pachulski Stang Ziehl & Jones, LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067

Dear Counsel:

I am writing to you on behalf of our clients Highland Capital Management Fund Advisors, L.P. ("HCMFA") and NexPoint Advisors, L.P. ("NexPoint", and together with HCMFA, the "Advisors"), and Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc. (together, the "Funds"). CLO Holdco, Ltd. ("CLO Holdco") whose counsel is copied below, joins in this notice and request.

As you are aware, certain registered investment companies and a business development company managed by either NexPoint or HCMFA own preference shares in many of the CLOs. In the following cases those companies own a majority of such shares<sup>1</sup>:

- Stratford CLO, Ltd. 69.05%
- Grayson CLO, Ltd. 60.47%
- Greenbriar CLO, Ltd. 53.44%

<sup>1</sup> These ownership percentages are derived from information provided by the Debtor. If the Debtor contends that the ownership percentages are inaccurate, please inform us of the Debtor's differing calculations.

In other cases, such companies in combination with CLO Holdco hold all, a super-majority, or a majority of the preference shares in the following CLOs:

- Liberty CLO, Ltd. 70.43%
- Stratford CLO, Ltd. 69.05%<sup>2</sup>
- Aberdeen Loan Funding, Ltd. 64.58%
- Grayson CLO, Ltd. 61.65%\*
- Westchester CLO, Ltd. 58.13%
- Rockwall CDO, Ltd. 55.75%
- Brentwood CLO, Ltd. 55.74%
- Greenbriar CLO, Ltd. 53.44%\*

Additionally, such companies own significant minority stakes in the following CLO's:

- Eastland CLO, Ltd. 41.69%
- Red River CLO, Ltd. 33.33%

The ownerships described above represent in many cases the total remaining outstanding interests in such CLOs, because the noteholders have been paid in full. In others, the remaining noteholders represent only a small percentage of remaining interests. Thus, the economic ownership of the registered investment companies, business development company, and CLO Holdco largely represent the investors in the CLOs identified above.

Contractually, the Debtor is obligated to maximize value for the benefit of the preference shareholders. Accordingly, we respectfully request that no further dispositions of CLO interests occur pending the confirmation hearing. While we recognize the Court denied the Advisor and Funds motion on this subject, the Court did not require liquidations occur immediately, and we reserve all rights to and remedies against the Debtor should the Debtor continue to liquidate CLO interests in contravention of this joint request. Given the Advisor, Funds, and CLO Holdco's requests, it is difficult to understand the Debtor's rationale for continued liquidations, or the benefit to the Debtor from pursuing those sales.

As you know, HCMLP's duties are set forth in the portfolio management agreements of the CLOs, which themselves have been adopted under the Investment Advisers Act of 1940 ("Advisers Act"). As HCMLP readily admits, it is: (i) terminating employees on January 31, 2021, which will result in a loss of the employees that have traditionally serviced those CLOs; (ii) ignoring the requests of the Advisors, Funds, and CLO Holdco, which together account for all or a majority of interests in certain CLOs, and selling assets of those CLOs prior to plan-confirmation; and (iii) adding a replacement manager as subadvisor prior to January 31, 2021. The Advisors, Funds, and CLO Holdco assert that those actions run in contravention to HCMLP's duty to maximize value for the holders of preference shares and thus what HCMLP has agreed to under the portfolio management agreement, as well as its duties under the Advisers Act, which ultimately will adversely impact the economic owners noted above.

<sup>2</sup> CLO's marked with an asterisk (\*) appear in the foregoing list as well.



For the forgoing and other reasons, we request that no further CLO transactions occur at least until the issues raised by and addressed in the Debtor's plan are resolved at the confirmation hearing.

Sincerely,

*A. Lee Hogewood, III*

A. Lee Hogewood, III

## **CLO EXHIBIT 13**



K&L GATES

December 23, 2020

A. Lee Hogewood, III  
Lee.hogewood@klgates.com

T: 1-919-743-7306

Jeffrey N. Pomerantz  
Ira D. Kharasch  
John A. Morris  
Gregory V. Demo  
Hayley R. Winograd  
Pachulski Stang Ziehl & Jones, LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067

Dear Counsel:

I am writing to you on behalf of our clients Highland Capital Management Fund Advisors, L.P. ("HCMFA") and NexPoint Advisors, L.P. ("NexPoint", and together with HCMFA, the "Advisors"), and Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc. (together, the "Funds"). CLO Holdco, Ltd. ("CLO Holdco") whose counsel is copied below, joins in this notice and request.

As you are aware, certain registered investment companies and a business development company managed by either NexPoint or HCMFA own preference shares in many of the CLOs. In the following cases those companies own a majority of such shares<sup>1</sup>:

- Stratford CLO, Ltd. 69.05%
- Grayson CLO, Ltd. 60.47%
- Greenbriar CLO, Ltd. 53.44%

<sup>1</sup> These ownership percentages are derived from information provided by the Debtor. If the Debtor contends that the ownership percentages are inaccurate, please inform us of the Debtor's differing calculations.

In other cases, such companies in combination with CLO Holdco hold, a super-majority, or a majority of the preference shares in the following CLOs:

- Liberty CLO, Ltd. 70.43%
- Stratford CLO, Ltd. 69.05%<sup>2</sup>
- Aberdeen Loan Funding, Ltd. 64.58%
- Grayson CLO, Ltd. 61.65%\*
- Westchester CLO, Ltd. 58.13%
- Rockwall CDO, Ltd. 55.75%
- Brentwood CLO, Ltd. 55.74%
- Greenbriar CLO, Ltd. 53.44%\*

Additionally, such companies own significant minority stakes in the following CLO's:

- Eastland CLO, Ltd. 41.69%
- Red River CLO, Ltd. 33.33%

The ownerships described above represent in many cases the total remaining outstanding interests in such CLOs, because the noteholders have been paid in full. In others, the remaining noteholders represent only a small percentage of remaining interests. Thus, the economic ownership of the registered investment companies, business development company, and CLO Holdco largely represent the investors in the CLOs identified above.

In pleadings filed with the Bankruptcy Court, you asserted that one or more of the entities identified above lacked the authority to seek a replacement of the Debtor as fund manager because of the alleged affiliate status of the beneficial owners of such entities. We disagree.

Consequently, in addition to our request of yesterday, where appropriate and consistent with the underlying contractual provisions, one or more of the entities above intend to notify the relevant trustees and/or issuers that the process of removing the Debtor as fund manager should be initiated, subject to and with due deference for the applicable provisions of the United States Bankruptcy Code, including the automatic stay of Section 362. The basis for initiating the process for such removal includes, but is not limited to, the fact that HCMLP's duties, as set forth in the portfolio management agreements of the CLOs, are subject to the requirements of the Investment Advisers Act of 1940 ("Advisers Act"). HCMLP appears to be acting contrary to those duties under the agreements and where HCMLP is not fulfilling its duties under the portfolio management agreement it is therefore violating the Advisers Act. Thus, because HCMLP is (i) terminating employees on January 31, 2021, which will result in a loss of the employees that have traditionally serviced, including key investment professionals identified in the transactional documents for those CLOs (generally Mark Okada and Jim Dondero); (ii) ignoring the requests of the Advisors, Funds, and CLO Holdco, which together account for all or a majority of interests in certain CLOs, and selling assets of those CLOs prior to plan confirmation; (iii)

<sup>2</sup> CLO's marked with an asterisk (\*) appear in the foregoing list as well.

adding a replacement manager as subadviser prior to January 31, 2021; and (iv) for other cause, the Advisors, Funds, and CLO Holdco have concluded that they have no choice but to initiate HCMLP's removal as fund manager where such entities are contractually and legally permitted or obligated to do so.

Because the process of removal is being initiated, subject to the applicable provisions of the Bankruptcy Code, we respectfully request that no further CLO transactions occur at least until the issues raised by and addressed in the Debtor's plan are resolved at the confirmation hearing. To the extent there are CLO transactions prior to the confirmation, we intend to fully explore the business justification for doing so, as we do not believe there is any rational business reason to liquidate securities prior to that time.

Sincerely,

*A. Lee Hogewood, III*

A. Lee Hogewood, III

## **CLO EXHIBIT 14**



LAW OFFICES  
LIMITED LIABILITY PARTNERSHIP

NEW YORK, NY  
LOS ANGELES, CA  
SAN FRANCISCO, CA  
WILMINGTON, DE

780 THIRD AVENUE  
34th FLOOR  
NEW YORK  
NEW YORK 10017-2024

TELEPHONE: 212/561 7700

FACSIMILE: 212/561 7777

LOS ANGELES  
10100 SANTA MONICA BLVD.  
13th FLOOR  
LOS ANGELES  
CALIFORNIA 90067

TELEPHONE: 310/277 6910

FACSIMILE: 310/201 0760

SAN FRANCISCO  
150 CALIFORNIA STREET  
15th FLOOR  
SAN FRANCISCO  
CALIFORNIA 94111-4500

TELEPHONE: 415/263 7000

FACSIMILE: 415/263 7010

DELAWARE  
919 NORTH MARKET STREET  
17th FLOOR  
P.O. BOX 8705  
WILMINGTON  
DELAWARE 19899-8705

TELEPHONE: 302/652 4100

FACSIMILE: 302/652 4400

WEB: [www.pszjlaw.com](http://www.pszjlaw.com)

Gregory Demo

December 24, 2020

212-561-7700  
[gdemo@pszjlaw.com](mailto:gdemo@pszjlaw.com)

**Via E-mail**

James A. Wright III  
K&L Gates LLP  
State Street Financial Center  
One Lincoln Street  
Boston, Massachusetts 02111

A. Lee Hogewood III  
K&L Gates LLP  
4350 Lassiter at North Hills Ave.  
Suite 300  
Raleigh, North Carolina 27609

**Re: In re Highland Capital Management, L.P., Case  
No. 19-34054-sgj (Bankr. N.D. Tex)**

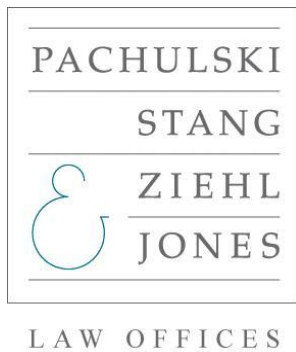
Dear Counsel:

As you know, we represent Highland Capital Management, L.P. (the “Debtor”), the debtor-in-possession in the above-captioned bankruptcy case.

On December 8, 2020, your firm filed that certain *Motion for Order Imposing Temporary Restrictions on Debtor’s Ability, as Portfolio Manager, to Initiate Sales by Non-Debtor CLO Vehicles [D.I. 1528]* (the “Motion”)<sup>1</sup> on behalf of Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc. (collectively, the “Movants”). After hearing the sworn testimony of the Movants’ witness and the arguments made on the Movants’ behalf, Judge Jernigan found that the Motion was “a very, very frivolous motion” and that your firm “wasted [her]

---

<sup>1</sup> All capitalized terms used but not defined herein shall have the meanings given to them in the Motion.



James A. Wright III  
A. Lee Hogewood III  
December 24, 2020  
Page 2

time.” (Transcript, 64:5-12) An order was entered denying the Motion on December 18, 2020 [D.I. 1605].

On December 22, we received the letter attached as Exhibit A (the “Letter”) from your firm on behalf of the Movants and CLO Holdco, Ltd. (an entity affiliated with James Dondero) re-asserting almost verbatim the frivolous arguments raised in the Motion. Concurrently, we received notice that certain of the Movants’ employees would not settle trades on behalf of the CLOs that were authorized by the Debtor acting in its capacity as the CLOs’ portfolio manager. The Movants’ employees who interfered with the Debtor’s directions justified their conduct by asserting – again almost verbatim – the frivolous arguments raised in the Motion.

The Movants have caused the Debtor to incur substantial costs defending itself against the Motion and preparing to defend against the frivolous suits forecasted in the Letter. The Debtor demands that the Movants withdraw the letter by 5:00 p.m. CT on Monday, December 28, 2020, and confirm that the Movants and anyone acting on their behalf will take no further steps to interfere with the Debtor’s directions as the CLOs’ portfolio manager. If the Movants fail to timely comply with these demands, the Debtor shall seek prompt judicial relief, including seeking sanctions under Federal Rule of Bankruptcy Procedure 9011.

The Debtor reserves all rights it may have, whether in law equity, or contract, including the right to seek reimbursement of any and all fees and expenses incurred in seeking sanctions.

Please feel free to contact me with any questions.

Sincerely,



Gregory Demo

Enclosure

cc: Jeffrey Pomerantz, Esq.  
Ira Kharasch, Esq.  
John Morris, Esq.  
John J. Kane, Esq.



# Exhibit A



K&L GATES

December 22, 2020

A. Lee Hogewood, III  
Lee.hogewood@klgates.com

T: 1-919-743-7306

Jeffrey N. Pomerantz  
Ira D. Kharasch  
John A. Morris  
Gregory V. Demo  
Hayley R. Winograd  
Pachulski Stang Ziehl & Jones, LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067

Dear Counsel:

I am writing to you on behalf of our clients Highland Capital Management Fund Advisors, L.P. ("HCMFA") and NexPoint Advisors, L.P. ("NexPoint", and together with HCMFA, the "Advisors"), and Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc. (together, the "Funds"). CLO Holdco, Ltd. ("CLO Holdco") whose counsel is copied below, joins in this notice and request.

As you are aware, certain registered investment companies and a business development company managed by either NexPoint or HCMFA own preference shares in many of the CLOs. In the following cases those companies own a majority of such shares<sup>1</sup>:

- Stratford CLO, Ltd. 69.05%
- Grayson CLO, Ltd. 60.47%
- Greenbriar CLO, Ltd. 53.44%

<sup>1</sup> These ownership percentages are derived from information provided by the Debtor. If the Debtor contends that the ownership percentages are inaccurate, please inform us of the Debtor's differing calculations.

In other cases, such companies in combination with CLO Holdco hold all, a super-majority, or a majority of the preference shares in the following CLOs:

- Liberty CLO, Ltd. 70.43%
- Stratford CLO, Ltd. 69.05%<sup>2</sup>
- Aberdeen Loan Funding, Ltd. 64.58%
- Grayson CLO, Ltd. 61.65%\*
- Westchester CLO, Ltd. 58.13%
- Rockwall CDO, Ltd. 55.75%
- Brentwood CLO, Ltd. 55.74%
- Greenbriar CLO, Ltd. 53.44%\*

Additionally, such companies own significant minority stakes in the following CLO's:

- Eastland CLO, Ltd. 41.69%
- Red River CLO, Ltd. 33.33%

The ownerships described above represent in many cases the total remaining outstanding interests in such CLOs, because the noteholders have been paid in full. In others, the remaining noteholders represent only a small percentage of remaining interests. Thus, the economic ownership of the registered investment companies, business development company, and CLO Holdco largely represent the investors in the CLOs identified above.

Contractually, the Debtor is obligated to maximize value for the benefit of the preference shareholders. Accordingly, we respectfully request that no further dispositions of CLO interests occur pending the confirmation hearing. While we recognize the Court denied the Advisor and Funds motion on this subject, the Court did not require liquidations occur immediately, and we reserve all rights to and remedies against the Debtor should the Debtor continue to liquidate CLO interests in contravention of this joint request. Given the Advisor, Funds, and CLO Holdco's requests, it is difficult to understand the Debtor's rationale for continued liquidations, or the benefit to the Debtor from pursuing those sales.

As you know, HCMLP's duties are set forth in the portfolio management agreements of the CLOs, which themselves have been adopted under the Investment Advisers Act of 1940 ("Advisers Act"). As HCMLP readily admits, it is: (i) terminating employees on January 31, 2021, which will result in a loss of the employees that have traditionally serviced those CLOs; (ii) ignoring the requests of the Advisors, Funds, and CLO Holdco, which together account for all or a majority of interests in certain CLOs, and selling assets of those CLOs prior to plan-confirmation; and (iii) adding a replacement manager as subadvisor prior to January 31, 2021. The Advisors, Funds, and CLO Holdco assert that those actions run in contravention to HCMLP's duty to maximize value for the holders of preference shares and thus what HCMLP has agreed to under the portfolio management agreement, as well as its duties under the Advisers Act, which ultimately will adversely impact the economic owners noted above.

<sup>2</sup> CLO's marked with an asterisk (\*) appear in the foregoing list as well.

For the forgoing and other reasons, we request that no further CLO transactions occur at least until the issues raised by and addressed in the Debtor's plan are resolved at the confirmation hearing.

Sincerely,

*A. Lee Hogewood, III*

A. Lee Hogewood, III

## **CLO EXHIBIT 15**



LAW OFFICES  
LIMITED LIABILITY PARTNERSHIP

NEW YORK, NY  
LOS ANGELES, CA  
SAN FRANCISCO, CA  
WILMINGTON, DE

780 THIRD AVENUE  
34th FLOOR  
NEW YORK  
NEW YORK 10017-2024

TELEPHONE: 212/561 7700

FACSIMILE: 212/561 7777

LOS ANGELES  
10100 SANTA MONICA BLVD.  
13th FLOOR  
LOS ANGELES  
CALIFORNIA 90067

TELEPHONE: 310/277 6910

FACSIMILE: 310/201 0760

SAN FRANCISCO  
150 CALIFORNIA STREET  
15th FLOOR  
SAN FRANCISCO  
CALIFORNIA 94111-4500

TELEPHONE: 415/263 7000

FACSIMILE: 415/263 7010

DELAWARE  
919 NORTH MARKET STREET  
17th FLOOR  
P.O. BOX 8705  
WILMINGTON  
DELAWARE 19899-8705

TELEPHONE: 302/652 4100

FACSIMILE: 302/652 4400

WEB: [www.pszjlaw.com](http://www.pszjlaw.com)

Gregory Demo

December 24, 2020

212-561-7700  
[gdemo@pszjlaw.com](mailto:gdemo@pszjlaw.com)

**Via E-mail**

James A. Wright III  
K&L Gates LLP  
State Street Financial Center  
One Lincoln Street  
Boston, Massachusetts 02111

A. Lee Hogewood III  
K&L Gates LLP  
4350 Lassiter at North Hills Ave.  
Suite 300  
Raleigh, North Carolina 27609

**Re: In re Highland Capital Management, L.P., Case  
No. 19-34054-sgj (Bankr. N.D. Tex)**

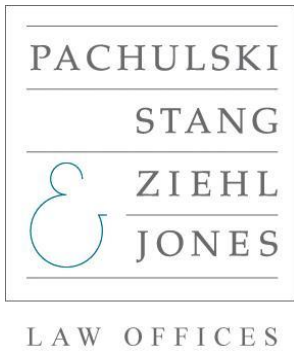
Dear Counsel:

As you know, we represent Highland Capital Management, L.P. (the “Debtor”), the debtor-in-possession in the above-captioned bankruptcy case.

On December 8, 2020, your firm filed that certain *Motion for Order Imposing Temporary Restrictions on Debtor’s Ability, as Portfolio Manager, to Initiate Sales by Non-Debtor CLO Vehicles [D.I. 1528]* (the “Motion”)<sup>1</sup> on behalf of Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc. (collectively, the “Movants”). After hearing the sworn testimony of the Movants’ witness and the arguments made on the Movants’ behalf, Judge Jernigan was convinced that the Movants were in fact Mr. James Dondero seeking to disrupt

---

<sup>1</sup> All capitalized terms used but not defined herein shall have the meanings given to them in the Motion.



James A. Wright III  
A. Lee Hogewood III  
December 24, 2020  
Page 2

HCMP's estate by using different controlled entities to accomplish his ends.

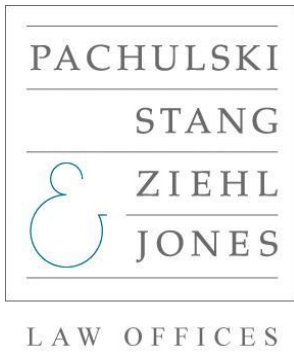
On December 23, we received the letter attached as Exhibit A (the "Letter") from your firm on behalf of the Movants and CLO Holdco, Ltd. (an entity affiliated with James Dondero) informing us that they were seeking to terminate certain CLO management agreements for "cause." For the reasons set forth herein, among others, such action is sanctionable under the circumstances and is otherwise prohibited by the CLOs' governing documents.

First, the Movants are owned and/or controlled by Mr. Dondero. These facts were disclosed in the Movants' public filings with the Securities and Exchange Commission and confirmed by Mr. Dustin Norris's testimony at the hearing held on December 16, 2020. Consequently, the Movants' attempt to terminate the CLO management agreements violates the order entered on January 9, 2020 [D.I. 339] (the "January Order"), which prohibits Mr. Dondero from "caus[ing] any Related Entity to terminate any agreements with the Debtor." A copy of the January Order is attached as Exhibit B.

Second, "cause" does not exist to terminate the CLO management agreements. The Debtor has a duty under the Investment Advisers Act of 1940 to the CLOs, not to any specific investor in the CLOs. *See, e.g., Goldstein v. SEC*, 451 F.3d 873, 881-82 (D.C. Cir. 2006) ("[t]he adviser owes fiduciary duties only to the fund, not to the fund's investors. . ."). The Debtor has, at all times, fulfilled its statutory and contractual duties to the CLOs and will continue to do so. As counsel, you have a duty to investigate the spurious allegations in your pleadings, but you failed to do so. Your clients' desire to re-assert control over the CLOs is not evidence to the contrary.

Third, the Movants, by their own admission, consider themselves affiliates of the Debtor. Under the management agreements, affiliates of a manager cannot replace a manager, and therefore, are prohibited from removing a manager.

Please confirm to us, in writing, no later than 5:00 p.m. CT on Monday, December 28, 2020, that you are withdrawing the Letter and that the Movants and CLO Holdco, Ltd., commit not to take any



James A. Wright III  
A. Lee Hogewood III  
December 24, 2020  
Page 3

actions, either directly or indirectly, to terminate the CLO management agreements. If we do not receive such confirmation, the Debtor will seek immediate relief from the bankruptcy court, including an action for contempt for violating the January Order and sanctions under Federal Rule of Bankruptcy Procedure 9011 or otherwise.

The Debtor reserves all rights it may have, whether in law equity, or contract, including the right to seek reimbursement of any and all fees and expenses incurred in seeking sanctions.

Please feel free to contact me with any questions.

Sincerely,



Gregory Demo

Enclosure

cc: Jeffrey Pomerantz, Esq.  
Ira Kharasch, Esq.  
John Morris, Esq.  
John J. Kane, Esq.



# Exhibit A



K&L GATES

December 23, 2020

A. Lee Hogewood, III  
Lee.hogewood@klgates.com

T: 1-919-743-7306

Jeffrey N. Pomerantz  
Ira D. Kharasch  
John A. Morris  
Gregory V. Demo  
Hayley R. Winograd  
Pachulski Stang Ziehl & Jones, LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067

Dear Counsel:

I am writing to you on behalf of our clients Highland Capital Management Fund Advisors, L.P. ("HCMFA") and NexPoint Advisors, L.P. ("NexPoint", and together with HCMFA, the "Advisors"), and Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc. (together, the "Funds"). CLO Holdco, Ltd. ("CLO Holdco") whose counsel is copied below, joins in this notice and request.

As you are aware, certain registered investment companies and a business development company managed by either NexPoint or HCMFA own preference shares in many of the CLOs. In the following cases those companies own a majority of such shares<sup>1</sup>:

- Stratford CLO, Ltd. 69.05%
- Grayson CLO, Ltd. 60.47%
- Greenbriar CLO, Ltd. 53.44%

<sup>1</sup> These ownership percentages are derived from information provided by the Debtor. If the Debtor contends that the ownership percentages are inaccurate, please inform us of the Debtor's differing calculations.

In other cases, such companies in combination with CLO Holdco hold, a super-majority, or a majority of the preference shares in the following CLOs:

- Liberty CLO, Ltd. 70.43%
- Stratford CLO, Ltd. 69.05%<sup>2</sup>
- Aberdeen Loan Funding, Ltd. 64.58%
- Grayson CLO, Ltd. 61.65%\*
- Westchester CLO, Ltd. 58.13%
- Rockwall CDO, Ltd. 55.75%
- Brentwood CLO, Ltd. 55.74%
- Greenbriar CLO, Ltd. 53.44%\*

Additionally, such companies own significant minority stakes in the following CLO's:

- Eastland CLO, Ltd. 41.69%
- Red River CLO, Ltd. 33.33%

The ownerships described above represent in many cases the total remaining outstanding interests in such CLOs, because the noteholders have been paid in full. In others, the remaining noteholders represent only a small percentage of remaining interests. Thus, the economic ownership of the registered investment companies, business development company, and CLO Holdco largely represent the investors in the CLOs identified above.

In pleadings filed with the Bankruptcy Court, you asserted that one or more of the entities identified above lacked the authority to seek a replacement of the Debtor as fund manager because of the alleged affiliate status of the beneficial owners of such entities. We disagree.

Consequently, in addition to our request of yesterday, where appropriate and consistent with the underlying contractual provisions, one or more of the entities above intend to notify the relevant trustees and/or issuers that the process of removing the Debtor as fund manager should be initiated, subject to and with due deference for the applicable provisions of the United States Bankruptcy Code, including the automatic stay of Section 362. The basis for initiating the process for such removal includes, but is not limited to, the fact that HCMLP's duties, as set forth in the portfolio management agreements of the CLOs, are subject to the requirements of the Investment Advisers Act of 1940 ("Advisers Act"). HCMLP appears to be acting contrary to those duties under the agreements and where HCMLP is not fulfilling its duties under the portfolio management agreement it is therefore violating the Advisers Act. Thus, because HCMLP is (i) terminating employees on January 31, 2021, which will result in a loss of the employees that have traditionally serviced, including key investment professionals identified in the transactional documents for those CLOs (generally Mark Okada and Jim Dondero); (ii) ignoring the requests of the Advisors, Funds, and CLO Holdco, which together account for all or a majority of interests in certain CLOs, and selling assets of those CLOs prior to plan confirmation; (iii)

<sup>2</sup> CLO's marked with an asterisk (\*) appear in the foregoing list as well.

adding a replacement manager as subadviser prior to January 31, 2021; and (iv) for other cause, the Advisors, Funds, and CLO Holdco have concluded that they have no choice but to initiate HCMLP's removal as fund manager where such entities are contractually and legally permitted or obligated to do so.

Because the process of removal is being initiated, subject to the applicable provisions of the Bankruptcy Code, we respectfully request that no further CLO transactions occur at least until the issues raised by and addressed in the Debtor's plan are resolved at the confirmation hearing. To the extent there are CLO transactions prior to the confirmation, we intend to fully explore the business justification for doing so, as we do not believe there is any rational business reason to liquidate securities prior to that time.

Sincerely,

*A. Lee Hogewood, III*

A. Lee Hogewood, III

## Exhibit B




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 9, 2020

  
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.,<sup>1</sup>

Debtor.

§  
§ Chapter 11  
§  
§ Case No. 19-34054-sgj11  
§  
§ Related to Docket Nos. 7 & 259

**ORDER APPROVING SETTLEMENT WITH OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS REGARDING GOVERNANCE OF THE DEBTOR  
AND PROCEDURES FOR OPERATIONS IN THE ORDINARY COURSE**

Upon the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* (the “Motion”),<sup>2</sup> filed by the above-captioned debtor and debtor in possession

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.



193405420010900000000008

(the “Debtor”); the Court having reviewed the Motion, and finding 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)(A), and (c) notice of this Motion having been sufficient under the circumstances and no other or further notice is required; and having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and having determined that the relief sought in the Motion is in the best interests of the Debtor and its estate; and after due deliberation and sufficient cause appearing therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on the terms and conditions set forth herein, and the United States Trustee’s objection to the Motion is OVERRULED.

2. The Term Sheet is approved and the Debtor is authorized to take such steps as may be necessary to effectuate the settlement contained in the Term Sheet, including, but not limited to: (i) implementing the Document Production Protocol; and (ii) implementing the Protocols.

3. The Debtor is authorized (A) to compensate the Independent Directors for their services by paying each Independent Director a monthly retainer of (i) \$60,000 for each of the first three months, (ii) \$50,000 for each of the next three months, and (iii) \$30,000 for each of the following six months, provided that the parties will re-visit the director compensation after the sixth month and (B) to reimburse each Independent Director for all reasonable travel or other expenses, including expenses of counsel, incurred by such Independent Director in connection with its service as an Independent Director in accordance with the Debtor’s expense reimbursement policy as in effect from time to time.

4. The Debtor is authorized to guarantee Strand's obligations to indemnify each Independent Director pursuant to the terms of the Indemnification Agreements entered into by Strand with each Independent Director on the date hereof.

5. The Debtor is authorized to purchase an insurance policy to cover the Independent Directors.

6. All of the rights and obligations of the Debtor referred to in paragraphs 3 and 4 hereof shall be afforded administrative expense priority under 11 U.S.C. § 503(b).

7. Subject to the Protocols and the Term Sheet, the Debtor is authorized to continue operations in the ordinary course of its business.

8. Pursuant to the Term Sheet, Mr. James Dondero will remain as an employee of the Debtor, including maintaining his title as portfolio manager for all funds and investment vehicles for which he currently holds that title; provided, however, that Mr. Dondero's responsibilities in such capacities shall in all cases be as determined by the Independent Directors and Mr. Dondero shall receive no compensation for serving in such capacities. Mr. Dondero's role as an employee of the Debtor will be subject at all times to the supervision, direction and authority of the Independent Directors. In the event the Independent Directors determine for any reason that the Debtor shall no longer retain Mr. Dondero as an employee, Mr. Dondero shall resign immediately upon such determination.

9. Mr. Dondero shall not cause any Related Entity to terminate any agreements with the Debtor.

10. No entity may commence or pursue a claim or cause of action of any kind against any Independent Director, any Independent Director's agents, or any Independent



Director's advisors relating in any way to the Independent Director's role as an independent director of Strand without the Court (i) first determining after notice that such claim or cause of action represents a colorable claim of willful misconduct or gross negligence against Independent Director, any Independent Director's agents, or any Independent Director's advisors and (ii) specifically authorizing such entity to bring such claim. The Court will have sole jurisdiction to adjudicate any such claim for which approval of the Court to commence or pursue has been granted.

11. Nothing in the Protocols, the Term Sheet or this Order shall affect or impair Jefferies LLC's rights under its Prime Brokerage Customer Agreements with the Debtor and non-debtor Highland Select Equity Master Fund, L.P., or any of their affiliates, including, but not limited to, Jefferies LLC's rights of termination, liquidation and netting in accordance with the terms of the Prime Brokerage Customer Agreements or, to the extent applicable, under the Bankruptcy Code's "safe harbor" protections, including under sections 555 and 561 of the Bankruptcy Code. The Debtor shall not conduct any transactions or cause any transactions to be conducted in or relating to the Jefferies LLC accounts without the express consent and cooperation of Jefferies LLC or, in the event that Jefferies withholds consent, as otherwise ordered by the Court. For the avoidance of doubt, Jefferies LLC shall not be deemed to have waived any rights under the Prime Brokerage Customer Agreements or, to the extent applicable, the Bankruptcy Code's "safe harbor" protections, including under sections 555 and 561 of the Bankruptcy Code, and shall be entitled to take all actions authorized therein without further order of the Court

12. Notwithstanding any stay under applicable Bankruptcy Rules, this Order shall be effective immediately upon entry.

13. The Court shall retain jurisdiction over all matters arising from or related to the interpretation and implementation of this Order, including matters related to the Committee's approval rights over the appointment and removal of the Independent Directors.

**## END OF ORDER ##**

## **CLO EXHIBIT 16**

The logo for K&L GATES, featuring the text "K&L GATES" in white, sans-serif capital letters on a dark blue rectangular background.

December 28, 2020

A. Lee Hogewood, III  
Lee.hogewood@klgates.com

T: 1-919-743-7306

Via Email

Gregory V. Demo  
Pachulski Stang Ziehl & Jones, LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067

Dear Counsel:

Thank you for your letters of December 24, 2020, demanding a reply by the afternoon of the 28th. To cut to the chase, we decline to withdraw the letters of December 22 and 23, 2020. The letter dated December 22, 2020 was a request from counsel for the Funds and Advisors, as well as Holdco, to you as counsel for the Debtor, asking that the Debtor cease further trading in property you have acknowledged is not an asset of the Debtor's estate. The request is continuing. The letter dated December 23, 2020 was notification from counsel for the Funds and Advisors, as well as Holdco, to you as counsel for the Debtors that the process to remove the Debtor as manager of certain funds would be initiated, *subject to* applicable orders in the pending bankruptcy case, provisions of the Bankruptcy Code and, specifically the automatic stay.

Neither letter was presented to, or constituted a request for relief from, any court. Thus, your threat to seek sanctions under Rule 9011 would not seem to be actionable or otherwise warranted by existing law. That said, if you believe there is authority for seeking 9011 sanctions against a party or a lawyer based upon either a request or a notification exclusively between counsel, please provide and we will certainly consider it. I would add that the demand to respond within a single business day, over an intervening holiday, is not in compliance with Rule 9011 in any event. Given that the rule is inapplicable, the procedural infirmity of your demand is immaterial.

Substantively, please consider the following:

First, there is no confusion on the part of our Firm or our client that our motion was denied. Thus, the Debtor is not prohibited from engaging in sales of CLO assets. Because the Debtor is free to do so, however, does not mean that the Debtor must engage in such transactions. The Debtor has acknowledged that the assets it has sold and may sell are expressly not property of the estate. Thus, any benefits of such transactions to the estate are not evident. On the other hand, the parties holding a majority of the beneficial interests in the assets have requested, and continue to request, that the Debtor refrain from selling those assets for a short time. What is the harm in refraining?

Second, in order to pursue the trades over the last several days, the Debtor has initiated the trades, as we understand it, by giving instructions to a trading desk other than Highland Capital Management Fund Advisors ("HCMFA"). The Debtor has demanded that employees of HCMFA "book" or "settle" the trades. Having not initiated the trades and with the trades executed outside of compliance protocols including HCMLP's order management system, HCMFA employees have been reluctant to do so because, among other reasons, they did not initiate them and cannot be sure such trades were properly pre-cleared. The Debtor presently has adequate staff and resources to process and settle trades without requiring involvement of HCMFA employees. In short, if the Debtor wishes to make trades, it has the ability to make them without HCMFA's assistance. If the Debtor desires or requires the continued support of HCMFA to make such trades, we should discuss an appropriate protocol and payment for such support.

Third, the Debtor's view that the historic affiliate relationship between it, the Funds, the Advisors and Holdco precludes those entities from replacing management is misplaced. While Mr. Dondero was never a control person of Holdco, we acknowledge he was once a control person in connection with many of the relevant entities. There is no doubt that Mr. Dondero no longer has control over the activities of the Debtor as fund manager, and thus the affiliate status that might have precluded the Funds and Advisors from seeking the removal and replacement of the fund manager no longer exists. Indeed, in the transcript of the hearing of December 16, at which the Court denied my clients' motion, Debtor's counsel made crystal clear that the Debtor's board had no interest in speaking with Mr. Dondero and further that Mr. Seery viewed discussions with Mr. Dondero as "a waste of time." Once Mr. Dondero ceased to be a control person or employee of the Debtor, any affiliate status between the Debtor on the one hand and the Advisors and the Funds on the other also terminated. This termination was effective pursuant to both Investment Company Act of 1940 (the "1940 Act") and the Indentures governing the CLOs. Having reviewed these facts with the 1940 Act experts in our Firm, we are confident that affiliate status is no longer an impediment to removal.

In view of the foregoing, I suggest that the parties could benefit from a call this week to discuss our competing communications and perhaps broader questions as well. Please let me know your availability over the next few days and I will work to coordinate a call.

Warm regards,

*A. Lee Hogewood, III*

A. Lee Hogewood, III

Cc: (via email)

Jeffrey N. Pomerantz

Ira D. Kharasch

John A. Morris

Hayley R. Winograd

John J. Kane

George Zornado

R. Charles Miller

## **CLO EXHIBIT 17**

1 J. SEERY

2 of function.

3 Q. I believe you said the  
4 reorganized Debtor will be terminating,  
5 did you say, most of its advisor  
6 employees?

7 A. Yes.

8 Q. Does it intend to hire new  
9 advisors?

10 A. New employees or consultants.  
11 We are working that through.

12 Q. New employees to serve --  
13 (Reporter interruption.)

14 A. They may be hired as employees  
15 or consultants. But to do basically the  
16 same functions.

17 Q. Do you know who those people are  
18 going to be at this point?

19 A. I don't have it all ironed out,  
20 no.

21 Q. Setting aside the Highland  
22 background and Dondero, just in a general  
23 sense, do you think it is unreasonable for  
24 a party to not want millions of dollars of  
25 its money to be managed by a manager that



1 J. SEERY

2 is going through bankruptcy and intends to  
3 terminate most of its advisor employees  
4 and then hire undisclosed replacements for  
5 those advisors?

6 MR. MORRIS: Objection to form  
7 of the question. Brian, there is  
8 going to be a deposition on Monday for  
9 confirmation discovery. I am not sure  
10 how this relates at all to the  
11 Complaint. But you are free to ask.  
12 I am just pointing it out that these  
13 last few questions, I just don't see  
14 the relevance for this particular  
15 proceeding. I promise you you will  
16 have the chance on Monday to ask these  
17 questions.

18 Q. You can answer.

19 A. Do I think it is unreasonable?

20 No. I think the Bankruptcy Code and  
21 provisions of the code are quite  
22 reasonable. So, to the extent that the  
23 Bankruptcy Code permits a counterparty to  
24 challenge the assumption of agreements or  
25 somehow challenge what the agreements --

1 J. SEERY

2 the entity's capability, then that would  
3 be permitted under the code. To the  
4 extent that the counterparty doesn't like  
5 the Bankruptcy Code, then I disagree with  
6 the counterparty. I think it's a pretty  
7 reasonable set of laws.

8 Q. But your contention that the  
9 attempt by the Defendants or, I guess, the  
10 potential attempt by the Defendants to  
11 replace the Debtor as the portfolio  
12 manager, you contend that is done in bad  
13 faith based on your belief that Jim  
14 Dondero is somehow pulling the strings  
15 from behind the scenes?

16 MR. MORRIS: Objection to form.

17 A. That's correct.

18 MR. CLARK: I pass the witness.

19 MR. MORRIS: That should be it.

20 MR. RUKAVINA: I have very few,  
21 but before it is my turn, does anyone  
22 else have questions?

23 MR. MORRIS: Nobody else should  
24 have questions since you are the two  
25 lawyers representing all the

1 J. SEERY

2 Defendants. This isn't open season.

3 But I am delighted to let you proceed.

4 EXAMINATION BY

5 MR. RUKAVINA:

6 Q. Mr. Seery, my next question is  
7 not intended to insult you or suggest  
8 anything. But is it your position that  
9 after assumption, my clients should be  
10 prohibited from trying to terminate these  
11 contracts if you commit fraud or are  
12 indicted for SEC crimes that are felonies?

13 A. No.

14 Q. Was the answer no?

15 A. The answer is no.

16 Q. What about other causes in the  
17 agreements? If there are objective causes  
18 to terminate that are provable, should my  
19 clients be prohibited from terminating the  
20 agreements post-assumption?

21 A. I'd have to look at each cause.

22 MR. RUKAVINA: Pass the witness.

23 Thank you.

24 MR. MORRIS: I have no  
25 questions.