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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P.,[1] Reorganized Debtor.	§	Chapter 11 Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff, vs. HIGHLAND CAPITAL MANAGEMENT SERVICES, INC., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST, Defendants.	§	Adversary Proceeding No. 21-3006-sgj

[1] The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

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HIGHLAND'S OPPOSITION TO MOTION TO DISMISS FIFTH, SIXTH, AND SEVENTH CLAIMS FOR RELIEF

Highland Capital Management, L.P., the plaintiff in the above-captioned and related adversary proceedings (the "Adversary Proceedings") and the reorganized debtor[2] ("Highland" or the "Debtor" as may temporally be required) in the above-captioned chapter 11 case (the "Bankruptcy Case"), hereby submits this opposition (the "Opposition")[3] to *Defendants' Rule 12(b)(6) Motion to Dismiss Plaintiff's Fifth, Sixth, and Seventh Claims for Relief* [Docket No. 72][4] (the "Motion") filed by defendants James Dondero ("Mr. Dondero"), Nancy Dondero (together with Mr. Dondero, the "Donderos"), and The Dugaboy Investment Trust ("Dugaboy," and collectively with Mr. Dondero and Nancy Dondero, the "Defendants"). The Debtor fully incorporates by reference its contemporaneously filed brief in opposition to the Motion and would show unto the Court as follows:

RELIEF REQUESTED

1. By this Opposition, Highland respectfully requests that the Court enter an order denying Defendants' Motion seeking to dismiss the Fifth, Sixth, and Seventh Claims for Relief in Highland's *Amended Complaint for (i) Breach of Contract, (ii) Turnover of Property, (iii) Fraudulent Transfer, and (iv) Breach of Fiduciary Duty* [Docket No. 68] (the "Amended Complaint").

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[2] On February 22, 2021, the Bankruptcy Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943] (the "Confirmation Order") which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, as modified (the "Plan"). The Plan went Effective (as defined in the Plan) on August 11, 2021, and Highland is the Reorganized Debtor (as defined in the Plan) since the Effective Date. *See Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Bankr. Docket No. 2700].

[3] This Opposition is being concurrently filed in Adversary Proceeding Nos. 21-3003, 21-3005, 21-3006, and 21-3007, as the claims asserted against Defendants and the arguments raised in the Motion in each of these proceedings are identical.

[4] Refers to the docket number maintained in the Adversary Proceeding.

2. Pursuant to Rules 7.1(d) and (h) of the *Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas* (the "Local Rules"), a separate brief (the "Brief") is being filed contemporaneously with this Opposition and is incorporated by reference.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Highland respectfully requests that the Court enter an order (i) denying in whole the relief requested in the Motion, and (ii) granting Highland such further and additional relief as the Court deems just and proper.

Dated: September 28, 2021.

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