John A. Morris *(pro hac vice)* (NY Bar No. 266326) Jordan A. Kroop *(pro hac vice)* (NY Bar No. 2680882) PACHULSKI STANG ZIEHL & JONES LLP 10100 Santa Monica Blvd., 13<sup>th</sup> Floor

Los Angeles, CA 90067 Telephone: (310) 277-6910 Email: jmorris@pszjlaw.com

Attorneys for Debtor Highland Capital Management, LP

Deborah Deitsch-Perez (TX Bar No. 24036072) Michael P. Aigen (TX Bar No. 24012196) STINSON LLP 3102 Oak Lawn Avenue, Suite 777

Dallas, Texas 75219-4259 Telephone: (214) 560-2201

 $Email: \quad deborah. deitschperez @stinson.com$ 

michael.aigen@stinson.com

Attorneys for James Dondero and Nancy Dondero

Daniel P. Elms (TX Bar No. 24002049) GREENBERG TRAURIG, LLP 2200 Ross Avenue, Suite 5200 Dallas, Texas 75201 (214) 665-3600 telephone (214) 665-3601 facsimile

Attorneys for Nancy Dondero

Email: elmsd@gtlaw.com

Douglas S. Draper (La. Bar No. 5073) Leslie A. Collins (La. Bar No. 14891) Greta M. Brouphy (La. Bar No. 26216) HELLER, DRAPER & HORN, L.L.C. 650 Poydras Street, Suite 2500 New Orleans, LA 70130 (504) 299-3300 telephone (504) 299-3399 facsimile Email: ddraper@hellerdraper.com

Email: ddraper@hellerdraper.com Email: lcollins@hellerdraper.com Email: gbrouphy@hellerdraper.com

Attorneys for The Dugaboy Investment Trust

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

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

VS.

JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,

Defendants.

Adv. Proc. No. 21-03003

Case No. 3:21-cv-03160-C

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

Adv. Proc. No. 21-03005

NEXPOINT ADVISORS, L.P., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST, Case No. 3:21-cv-03162-K

Defendants.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

VS.

Adv. Proc. No. 21-03006

HIGHLAND CAPITAL MANAGEMENT SERVICES, INC., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,

Defendants.

Case No. 3:21-cy-03179-M

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

VS.

Adv. Proc. No. 21-03007

HCRE PARTNERS, LLC (n/k/a NexPoint Real Estate Partners, LLC), JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST.

Case No. 3:21-cv-03207-S

Defendants.

# STIPULATION CONSOLIDATING AND STAYING BRIEFING ON APPEAL OF MOTIONS TO COMPEL ARBITRATION

This Stipulation is entered into between and among Highland Capital Management, L.P., the plaintiff (the "Plaintiff" or "Appellee") in the above-referenced adversary proceedings (the "Adversary Proceedings"), on the one hand, and James Dondero, Nancy Dondero, and The STIPULATION CONSOLIDATING AND STAYING BRIEFING ON APPEAL OF MOTIONS TO COMPEL ARBITRATION – PAGE 2

CORE/3522697.0002/171857511.6

Dugaboy Investment Trust ("Dugaboy" and together with James Dondero and Nancy Dondero, the "Defendants" or "Appellants") (Plaintiff and Defendants together, the "Parties"), the defendants in the Adversary Proceedings, on the other hand.

### **RECITALS**

WHEREAS, on January 22, 2021, Plaintiff commenced the Adversary Proceedings;

WHEREAS, Plaintiff subsequently amended its pleading to add additional claims and parties (collectively, the "Amended Complaints");

WHEREAS, the Amended Complaints asserted new claims against Defendants James Dondero, Nancy Dondero, and Dugaboy, including declaratory relief (Count V), breach of fiduciary duty (Count VI), and aiding and abetting a breach of fiduciary duty (Count VII) (collectively, the "New Claims");

WHEREAS, on September 1, 2021, Defendants filed Motions to Compel Arbitration and Stay Litigation with respect to the New Claims asserted in the Amended Complaints;

WHEREAS, on December 3, 2021, the U.S. Bankruptcy Court for the Northern District of Texas (Jernigan, B.J.) (the "Bankruptcy Court") issued a *Memorandum Opinion and Order Denying Arbitration Request and Related Relief* (the "Arbitration Order");

WHEREAS, on December 16, 2021, the Defendants filed Notices of Appeal related to the Arbitration Order in each of the Adversary Proceedings;

WHEREAS, the appeals of the Arbitration Order are currently pending in the abovereferenced cases in this Court (the "Appellate Proceedings");

WHEREAS, each Appellate Proceeding is based on the same Arbitration Order, has identical Appellants and Appellee, and presents issues substantively identical to the other three Appellate Proceedings;

STIPULATION CONSOLIDATING AND STAYING BRIEFING ON APPEAL OF MOTIONS TO COMPEL ARBITRATION – PAGE 3  $\,$ 

WHEREAS, the appeals of other Bankruptcy Court orders from the Adversary Proceedings

are currently pending before Judge Brantley Starr;

WHEREAS, on December 17, 2021, Plaintiff moved for partial summary judgment on the

first and second claims for relief set forth in the Amended Complaints (the "Summary Judgment

Motion"); and

WHEREAS, the Parties have agreed to enter into this Stipulation to consolidate, transfer,

and stay the Appellate Proceedings and to stay prosecution of the New Claims in the Bankruptcy

Court until final resolution of the Summary Judgment Motion, including appeals;

**STIPULATION** 

NOW, THEREFORE, in consideration of the foregoing, the Parties agree and stipulate as

follows:

1. The four Appellate Proceedings shall be consolidated for all purposes and

transferred into Judge Brantley Starr's court (the "Consolidated Appellate Proceeding").

2. The Consolidated Appellate Proceeding, including briefing, shall be stayed

until final resolution of the Summary Judgment Motion.

3. Specifically, final resolution of the Summary Judgment Motion means a

final order on the Summary Judgment Motion by the Bankruptcy Court following any appeals of

any Bankruptcy Court order resolving the Summary Judgment Motion ("Final Resolution"). On

Final Resolution, the Parties shall immediately notify the District Court and request either a

dismissal of, or a briefing schedule for, the Consolidated Appellate Proceeding.

4. This Stipulation (including the fact that the Stipulation was entered into by

the Parties) shall not be used in any way to delay any other proceedings in the Bankruptcy Court.

STIPULATION CONSOLIDATING AND STAYING BRIEFING ON APPEAL OF MOTIONS TO COMPEL

- 5. The New Claims shall not be prosecuted or pursued in any manner during the duration of this stay.
- 6. The Parties shall file a Notice of Stipulation in the Adversary Proceedings, notifying the Bankruptcy Court of this Stipulation.

Dated: January 18, 2022

#### CONSENTED AND AGREED TO BY:

/s/ Jordan A. Kroop

John A. Morris (pro hac vice)

(NY Bar No. 266326)

Jordan A. Kroop (pro hac vice)

(NY Bar No. 2680882)

PACHULSKI STANG ZIEHL & JONES LLP

10100 Santa Monica Blvd., 13th Floor

Los Angeles, CA 90067 Telephone: (310) 277-6910 Email: jmorris@pszjlaw.com

Attorneys for Debtor Highland Capital

Management, LP

<u>/s/ Michael P. Aigen</u>

Deborah Deitsch-Perez (TX Bar No. 24036072)

Michael P. Aigen (TX Bar No. 24012196)

STINSON LLP

3102 Oak Lawn Avenue, Suite 777

Dallas, Texas 75219-4259 Telephone: (214) 560-2201

Email: deborah.deitschperez@stinson.com

michael.aigen@stinson.com

Attorneys for James Dondero and Nancy Dondero

/s/ Daniel P. Elms

Daniel P. Elms

(TX Bar No. 24002049)

GREENBERG TRAURIG, LLP

2200 Ross Avenue, Suite 5200

Dallas, Texas 75201

(214) 665-3600 telephone

(214) 665-3601 facsimile

Email: elmsd@gtlaw.com

Attorneys for Nancy Dondero

/s/ Douglas S. Draper

Douglas S. Draper (La. Bar No. 5073)

Leslie A. Collins (La. Bar No. 14891)

Greta M. Brouphy (La. Bar No. 26216)

HELLER, DRAPER & HORN, L.L.C.

650 Poydras Street, Suite 2500

New Orleans, LA 70130

(504) 299-3300 telephone

(504) 299-3399 facsimile

Email: ddraper@hellerdraper.com

Email: lcollins@hellerdraper.com

Email: gbrouphy@hellerdraper.com

Attorneys for The Dugaboy Investment Trust

## **CERTIFICATE OF SERVICE**

I certify that on January 18, 2022, a true and correct copy of the foregoing document was served via the Court's Electronic Case Filing system to the parties that are registered or otherwise entitled to receive electronic notices in this adversary proceeding.

/s/ Michael P. Aigen
Michael P. Aigen