Docket #0001 Date Filed: 4/6/2022 تعالى المحافظ Docket #0001 Date Filed: 4/6/2022 المحافظ Docket #0001 Date Filed: 4/6/2022

#### BTXN 138 (rev. 03/15)

### UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF TEXAS

§

In Re: Highland Capital Management, L.P.	
Highland Capital Management, L.P.	Debtor(s)
	Plaintiff(s)
vs. Highland Capital Management Fund A	Advisors, L.P. Defendant(s)
Highland Capital Management, L.P.	Plaintiff(s)
vs. Highland Capital Management Fund A	Advisors, L.P. Defendant(s)

Case No.: 19–34054–sgj11 Chapter No.: 11 Adversary No.: 21–03082–sgj Civil Case No.:

# NOTICE OF TRANSMITTAL REGARDING WITHDRAWAL OF REFERENCE

I am transmitting:

- □ One copy of the Motion to Withdraw Reference (USDC Civil Action No. DNC Case) **NOTE**: A Status Conference has been set for at , in \_ before U.S. Bankruptcy Judge \_. The movant/plaintiff, respondent/defendant or other affected parties are required to attend the Status Conference.
- ☑ One copy of: <u>Motion to Withdraw Reference</u>.

**TO ALL ATTORNEYS:** Fed.R.Bankr.P. 5011(a) A motion for withdrawal of a case or proceeding shall be heard by a district judge, [*implied*] that any responses or related papers be filed likewise.

DATED: 4/6/22

FOR THE COURT: Robert P. Colwell, Clerk of Court

by: /s/Sheniqua Whitaker, Deputy Clerk



Case 3:22-cv-00789-K Document 1 Filed 04/06/22 Page 2 of 4 PageID 2 BTXN 116 (rev. 07/08)

#### UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF TEXAS

### WITHDRAWAL OF REFERENCE SERVICE LIST

### **Transmission of the Record**

BK Case No.: <u>19–34054–sgj11</u>

Adversary No.: <u>21–03082–sgi</u>

Received in District Court by:

Date:

Volume Number(s):

cc: Stacey G. Jernigan Robert Schaaf Nathan Elner Attorney(s) for Appellant US Trustee

#### Plaintiff Highland Capital Management, L.P.

Zachery Z. Annable Hayward PLLC 10501 N. Central Expressway Suite 106 Dallas, TX 75231 (972) 755–7108

Melissa S. Hayward Hayward PLLC 10501 N. Central Expry, Ste. 106 Dallas, TX 75231 972–755–7104

#### Defendant Highland Capital Management Fund Advisors, L.P.

Michael P. Aigen Stinson, L.L.P. 3102 Oak Lawn Avenue, Suite 777 Dallas, TX 75219 (214) 560–2201

And

Deborah Rose Deitsch-Perez Stinson Leonard Street 3102 Oak Lawn Avenue Suite 777 Dallas, TX 75219 (214) 560–2201

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BTXN 150 (rev. 11/10)			
In Re: Highland Capital Management, L.P.		\$ \$ 8	Case No.: 19–34054–sgj11
Highland Capital Management, L.P.	Debtor(s)		Chapter No.: 11
	Plaintiff(s)	\$ \$ 8	Adversary No.: 21–03082–sgj
Highland Capital Management Fund Advisors, L.P.	Defendant(s)	\$ \$	

### **CIVIL CASE COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) <b>PLAINTIFF</b> Highland Capital Manag	ement, LP	<b>DEFENDANT</b> Highland Capital Management Fund Advisors, L.P.			
(b) County of Residence of I (EXCEPT IN U.S. PLAI		County of Residence of First Listed Party: (IN U.S. PLAINTIFF CASES ONLY)			
<ul> <li>(c) Attorney's (Firm Name, Address, and Telephone Number) Zachery Z. Annable Hayward PLLC 10501 N. Central Expressway Suite 106 Dallas, TX 75231 (972) 755–7108</li> <li>Melissa S. Hayward Hayward PLLC 10501 N. Central Expry, Ste. 106 Dallas, TX 75231 972–755–7104</li> </ul>		Attorney's (If Known) Michael P. Aigen Stinson, L.L.P. 3102 Oak Lawn Avenue, Suite 777 Dallas, TX 75219 (214) 560–2201 Deborah Rose Deitsch–Perez Stinson Leonard Street 3102 Oak Lawn Avenue Suite 777 Dallas, TX 75219 (214) 560–2201			
					II. BASIS OF JURISDICTION U.S. Government 1 Plaintiff
III. CITIZENSHIP OF PRINCIPAL PARTIES					
Citizen of This State	0 <sub>1</sub> 0 <sub>1</sub>	Incorporated <i>or</i> Principal Place O 4 O 4			
Citizen of Another State	ο <sub>2</sub> ο <sub>2</sub>	Incorporated <i>and</i> Principal Place O 5 O 5			
Citizen or Subject of a Foreign Country	о <sub>3</sub> о <sub>3</sub>	Foreign Nation C 6 C 6			
IV. NATURE OF SUIT					
C 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 C 890 Other Statutory Actions					
V. ORIGIN					
	C 2 Removed from State Court	C 3 Remanded from Appellate Court C 4 Reinstated or Reopened			
O 5 Transferred from another district	O 6 Multidistrict Litigation	O 7 Appeal to District Judge from Magistrate Judgment			
VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing ( <b>Do not cite jurisdictional statutes unless diversity</b> ): 423 Withdrawal 28 USC 157 Brief description of cause: Motion to withdraw the reference					
VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Ves No					

DATED: 4/6/22

FOR THE COURT: Robert P. Colwell, Clerk of Court by: /s/Sheniqua Whitaker, Deputy Clerk

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

### STINSON LLP

Deborah Deitsch-Perez Texas Bar No. 24036072 Michael P. Aigen Texas Bar No. 24012196 3102 Oak Lawn Avenue, Suite 777 Dallas, Texas 75219-4259 Telephone: (214) 560-2201 Facsimile: (214) 560-2203

Counsel for Highland Capital Management Fund Advisors, L.P.

#### 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) 755-7110 Fax: (972) 755-7110

Counsel for Highland Capital Management, L.P.

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

In re	§	
	§	Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT,	§	
L.P.,	§	Chapter 11
	§	
Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT,	§	
L.P.,	§	
	§	
Plaintiff,	§	
	§	Adviousomy No. 21 02082
V.	§	Adversary No. 21-03082
	§	
HIGHLAND CAPITAL MANAGEMENT	§	
FUND ADVISORS, L.P.	§	
	§	
Defendant.	§	

## AGREED MOTION FOR THE ISSUANCE OF A REPORT AND RECOMMENDATION WITHDRAWING THE REFERENCE

COMES NOW Highland Capital Management, L.P., as the reorganized debtor ("<u>Highland</u>" or "<u>Plaintiff</u>"), and Highland Capital Management Fund Advisors, L.P. ("<u>HCMFA</u>" or "<u>Defendant</u>", and together with Highland, the "<u>Parties</u>"), by and through their respective undersigned counsel, file this *Agreed Motion for the Issuance of a Report and Recommendation Withdrawing the Reference* (the "<u>Motion</u>") respectfully stating as follows:

On October 16, 2019 (the "<u>Petition Date</u>"), Highland filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "<u>Bankruptcy Code</u>") in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "<u>Delaware Court</u>").

On December 4, 2019, the Delaware Court entered an order transferring venue of Highland's bankruptcy case (the "<u>Bankruptcy Case</u>") to the United States Bankruptcy Court for the Northern District of Texas (the "<u>Bankruptcy Court</u>"). On January 22, 2021, Highland filed its *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (as Modified) [Bankr. Docket No. 1808] (the "<u>Plan</u>").

On February 22, 2021, the Bankruptcy Court entered the Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief [Docket No. 1943] (the "Confirmation Order") which confirmed Highland's Plan.

On August 11, 2021, the Plan became Effective (as defined in the Plan), and Highland became the Reorganized Debtor (as defined in the Plan). *See Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Bankr. Docket No. 2700].

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On January 22, 2021, Highland commenced a different adversary proceeding involving the same parties (the "<u>First Adversary Proceeding</u>") as this adversary proceeding, Adv. No. 21-03004, but involving different promissory notes. In the First Adversary Proceeding, HCMFA filed *Defendant's Motion to Withdraw the Reference* [Docket No. 20], asking the United States District Court for the Northern District of Texas (the "<u>District Court</u>") to enter an order withdrawing from the Bankruptcy Court the reference of the First Adversary Proceeding. On July 8, 2021, the Bankruptcy Court issued a *Report and Recommendation to District Court Proposing that it (A) Grant Defendant's Motion to Withdraw the Reference at Such Time as Bankruptcy Court Certifies that Action is Trial Ready, and (B) Defer Pretrial Matters to Bankruptcy Court. [Docket No. 50] (the "<u>First Report and Recommendation</u>").* 

On September 14, 2021, the District Court, in Civil Action No. 3:21-CV-00881-X, issued an Order accepting the First Report and Recommendation referring the case for pretrial management to the Bankruptcy Court until that Court notifies the District Court that the case is ready for trial, at which time the reference would be withdrawn. [Docket No 14].

On November 9, 2021, Highland commenced this adversary proceeding, involving the same parties as the First Adversary Proceeding, but involving different promissory notes.

On November 10, 2021, the Bankruptcy Court issued its *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* [Docket No. 3] (the "<u>Alternative</u> <u>Scheduling Order</u>"). This Adversary Proceeding was automatically referred to the Bankruptcy Court pursuant to 28 U.S.C. § 157(a) and District Court Miscellaneous Order No. 33, *Order of Reference of Bankruptcy Cases and Proceedings Nunc Pro Tunc*.

In light of the foregoing, and to avoid unnecessary motion practice, the Parties jointly request that the Bankruptcy Court issue a report and recommendation substantively the same as

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the First Report and Recommendation, including that (a) the District Court refer all pre-trial matters to the Bankruptcy Court and withdraw the reference upon certification by the Bankruptcy Court that the case is trial-ready, and (b) to the extent a dispositive motion is brought that the Bankruptcy Court determines should be granted and would finally dispose of claims in this Adversary Proceeding, the Bankruptcy Court should submit a report and recommendation to the District Court for the District Court to adopt or reject.

WHEREFORE, PREMISES CONSIDERED, the Parties respectfully request that the Bankruptcy Court: (i) enter an order granting the Motion; (ii) issue a report and recommendation substantively the same as the First Report and Recommendation issued in the First Adversary Proceeding; and (iii) grant such other and further relief the Court deems necessary and just.

RESPECTFULLY SUBMITTED this 18th day of January, 2022.

### STINSON LLP

/s/ Deborah Deitsch-Perez Deborah Deitsch-Perez Texas State Bar No. 24036072 Michael P. Aigen Texas State Bar No. 24012196 3102 Oak Lawn Avenue, Suite 777 Dallas, Texas 75219-4259 Telephone: (214) 560-2201 Facsimile: (214) 560-2203 Email: deborah.deitschperez@stinson.com michael.aigen@stinson.com

Counsel for Highland Capital Management Fund Advisors, L.P.

- and -

## PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717) Ira D. Kharasch (CA Bar No. 109084) John A. Morris (NY Bar No. 266326) Gregory V. Demo (NY Bar No. 5371992) Hayley R. Winograd (NY Bar No. 5612569) 10100 Santa Monica Blvd., 13th Floor Los Angeles, CA 90067 Telephone: (310) 277-6910 Facsimile: (310) 201-0760 E-mail: jpomerantz@pszjlaw.com ikharasch@pszjlaw.com jmorris@pszjlaw.com gdemo@pszjlaw.com

- and –

## HAYWARD PLLC

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

Counsel for Highland Capital Management, L.P.

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on January 18, 2022, a true and correct copy of this document was served electronically via the Court's CM/ECF system on all parties registered to receive electronic notices in this case, including on the Plaintiff through its coursel of record.

/s/Deborah Deitsch-Perez

Deborah Deitsch-Perez