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

In re:)
) Chapter 11
)
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹) Case No. 19-34054-sgj11
)
Debtor.)
_____)

**DEBTOR'S FOURTH MOTION FOR ENTRY OF AN
ORDER PURSUANT TO 11 U.S.C. § 1121(d) AND LOCAL RULE
3016-1 FURTHER EXTENDING THE EXCLUSIVITY PERIODS FOR THE
FILING AND SOLICITATION OF ACCEPTANCES OF A CHAPTER 11 PLAN**

TO THE HONORABLE STACEY G. C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE:

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 300 Crescent Court, Suite 700, Dallas, TX 75201.



COMES NOW Highland Capital Management, L.P. (the “Debtor”), the debtor and debtor-in-possession in the above-captioned chapter 11 bankruptcy case (the “Bankruptcy Case”) filing this *Fourth Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(d) and Local Rule 3016-1 Further Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan* (the “Motion”) requesting entry of an order pursuant to section 1121(d) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 3016-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas (the “Local Rules”), further extending the exclusivity periods provided by Bankruptcy Code sections 1121(b) and (c)(3) for the filing of a chapter 11 plan and the solicitation of acceptances of the plan by an additional thirty (30) days each. In support of the Motion, the Debtor respectfully states as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

II. BACKGROUND

2. On October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Delaware Court”).

3. On October 29, 2019, the Official Committee of Unsecured Creditors (the “Committee”) was appointed by the U.S. Trustee in the Delaware Court.

4. On December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor’s bankruptcy case to this Court [Docket No. 186].²

² All docket numbers refer to the docket maintained by this Court.

5. The Debtor has continued in the possession of its property and has continued to operate and manage its business as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this chapter 11 case.

6. On January 24, 2020, the Debtor filed its first motion to extend the Exclusive Filing Period (as defined below) and the Solicitation Period (as defined below) [Docket No. 395] through and including June 12, 2020 and August 11, 2020, respectively (the “Initial Extension Period”). On February 19, 2020, the Court entered an order approving the first motion extending the deadlines [Docket No. 460] (the “First Extension Order”).

7. On April 28, 2020, the Debtor filed its second motion to further extend the Exclusive Filing Period and the Solicitation Period [Docket No. 606] seeking an extension of the exclusive periods for 120 days. After discussions with the Committee, the Debtor and the Committee agreed on a thirty (30) day extension of the Exclusive Periods (as defined below) without prejudice to the Debtor’s right to seek further extensions. On May 26, 2020, the Court entered an agreed order extending the Exclusive Filing Period (as defined below) through and including July 13, 2020, and the Solicitation Period (as defined below) through and including September 10, 2020 [Docket No. 668] (the “Second Extension Order”).

8. On June 12, 2020, the Debtor filed its third motion to further extend the Exclusive Filing Period and Solicitation Period [Docket No. 737] seeking an extension of the exclusive periods for thirty days. On July 10, 2020, the Court entered an order extending the Exclusive Filing Period through and including August 12, 2020, and the Solicitation Period through and including October 13, 2020 [Docket No. 820] (the “Third Extension Order”).

9. On August 3, 2020, this Court entered the *Order Directing Mediation* [Docket No. 912] (the “Mediation Order”) pursuant to which this Court appointed Retired Judge Allan

Gropper and Sylvia Mayer (collectively, the “Mediators”) to mediate certain disputes in this Case and to assist in negotiating the terms of a plan of reorganization (the “Mediation”). The Mediation is scheduled to being on August 27, 2020, and to conclude on September 4, 2020.

10. On August 11, 2020, Michael Lynn, counsel to James Dondero, contacted Jeffrey Pomerantz, the Debtor’s counsel. Mr. Lynn requested that the Debtor not file its plan of reorganization (the “Plan”) as it would undermine Mr. Dondero’s ability to effectively participate in the Mediation. After consulting with the Debtor’s independent board, Mr. Pomerantz responded that while the Debtor supported Mr. Dondero’s participation in the plan process, the Debtor intended to file its Plan and related disclosure statement (the “Disclosure Statement”) on August 12, 2020, the day that the Debtor’s plan exclusivity expired

11. Upon information and belief, Mr. Lynn, on behalf of Mr. Dondero, contacted the Mediators and reiterated that the filing of the Plan could limit Mr. Dondero’s options with respect to his ability to support the Debtor’s reorganization efforts and prevent him from effectively participating in the Mediation.

12. Subsequently, the Mediators, on August 12, 2020, contacted the Debtor, through counsel, and asked the Debtor to delay filing the Plan. The Mediators expressed concerns that the filing of the Plan would compromise the integrity of the Mediation. The Mediators communicated to the Debtor’s counsel that they believed that it was in the best interests of all stakeholders to try to reach the terms of a comprehensive restructuring through mediation before the terms of an alternative plan became public. The Mediators recognized the Debtor’s desire to maintain plan exclusivity and requested, in the alternative, that the Debtor file a motion to extend plan exclusivity and also seek authority to file the Plan and Disclosure Statement under seal.

13. The Debtor determined that the Mediators' request was reasonable and requested that the Committee support a motion to continue plan exclusivity until after the Mediation. Alternatively the Debtor asked the Committee to support the Debtor's motion to file the Plan and Disclosure Statement under seal. The Committee rejected both requests necessitating this Motion.

14. Consequently, on August 12, 2020, the Debtor, in order to keep exclusivity, filed heavily redacted versions of the Plan and Disclosure Statement [Docket Nos. 944, 945]. The Debtor was also forced to file this Motion to seek an extension of the Exclusive Periods. If this Motion is granted, the Debtor intends to withdraw its Plan and the Disclosure Statement as requested by the Mediators.

III. RELIEF REQUESTED

15. The Debtor respectfully requests entry of an order pursuant to section 1121(d) of the Bankruptcy Code and Local Rule 3016-1 further extending the exclusivity periods provided by Bankruptcy Code sections 1121(b) and (c)(3) and Local Rule 3016-1 for the filing of a chapter 11 plan and the solicitation of acceptances of the plan by 30 days (specifically through September 11, 2020 and November 12, 2020, respectively).

16. The Exclusive Filing Period and the Solicitation Period are currently set to expire on August 12, 2020 and October 13, 2020, respectively. The Debtor requests an extension of 30 days of each of the Exclusive Filing Period and the Solicitation Period to allow the parties to the Mediation—at the request of the Mediators—to devote their time and resources to the Mediation and to negotiate a plan of reorganization. As stated by the Mediators, this requested extension will also protect the integrity of the Mediation and allow each party, including Mr. Dondero, to participate fully in that Mediation.

IV. BASIS FOR RELIEF

17. Section 1121(b) of the Bankruptcy Code provides for an initial period of 120 days after commencement of a chapter 11 case during which the debtor has the exclusive right to propose and file a chapter 11 plan (the “Exclusive Filing Period”). Section 1121(c)(3) of the Bankruptcy Code provides that, if a debtor files a plan within the 120-day Exclusive Filing Period, it has a period of 180 days after the commencement of the case to obtain acceptances of such plan, during which time competing plans may not be filed (the “Solicitation Period” and together with the Exclusive Filing Period, the “Exclusive Periods”). Pursuant to section 1121(d) of the Bankruptcy Code, courts may extend the Exclusive Periods for “cause.” Local Rule 3016-1 provides that extension of the Exclusive Periods requires the “fil[ing of] a motion requesting the extension that includes a statement of the reasons why a plan has not been filed and a detailed timetable of the steps to be taken in order to file a plan.”

18. Although the Bankruptcy Code does not define the term “cause,” the legislative history indicates it is intended to be a flexible standard to balance the competing interests of a debtor and its creditors. *See* H.R. Rep, No. 95-595, at 231-32 (1978), reprinted in 1978 U.S.C.C.A.N. 5787, 6191 (noting that Congress intended to give bankruptcy courts flexibility to protect a debtor’s interest by allowing unimpeded opportunity to negotiate settlement of debts without interference from other parties in interest).

19. Sufficient “cause” exists to grant the Debtor’s requested extension of the Exclusive Periods. This Court ordered each of (i) the Debtor, (ii) the Committee, (iii) UBS Securities LLC and UBS AG, London Branch, (iv) Acis Capital Management, L.P., and Acis Capital Management GP LLC, and (v) Mr. Dondero to “participate in the Mediation in good faith.” (Mediation Order, ¶ 10.) Here, the Mediators have requested that the Debtor *not* file its Plan in order to protect the integrity of the Mediation. As this Court has ordered the Debtor,

among others, to participate in the Mediation in good faith, the Debtor believes that it is obligated to comply with the Mediators' request and to seek an extension of the Exclusive Periods as set forth in this Motion. If this Motion is granted, the Debtor will withdraw its Plan and Disclosure Statement.

V. NOTICE

20. Notice of this Motion will be provided to: (a) the Office of the United States Trustee; (b) the Office of the United States Attorney for the Northern District of Texas; (c) the Debtor's principal secured parties; (d) counsel to the Committee; and (e) parties requesting notice pursuant to Bankruptcy Rule 2002.

VI. PRAYER

WHEREFORE, the Debtor respectfully requests that the Court enter an order, substantially in the form attached hereto as **Exhibit A**: (i) granting the relief requested herein and (ii) granting such other and further relief as the Court may deem proper.

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Dated: August 13, 2020.

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EXHIBIT A

PROPOSED ORDER

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

<p>In re:</p> <p>HIGHLAND CAPITAL MANAGEMENT, L.P.,¹</p> <p style="text-align: center;">Debtor.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Chapter 11</p> <p>Case No. 19-34054-sgj11</p> <p>Re: Docket No. _____</p>
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**ORDER GRANTING DEBTOR’S FOURTH MOTION FOR ENTRY OF
AN ORDER PURSUANT TO 11 U.S.C. § 1121(d) AND LOCAL RULE 3016-1
FURTHER EXTENDING THE EXCLUSIVITY PERIODS FOR THE FILING
AND SOLICITATION OF ACCEPTANCES OF A CHAPTER 11 PLAN**

Having considered the *Fourth Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(d) and Local Rule 3016-1 Further Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan* (the “Motion”) filed by Highland Capital Management, L.P. (the “Debtor”), the debtor and debtor-in-possession in the above-captioned chapter 11 bankruptcy case (the “Bankruptcy Case”), seeking (i) an extension through September

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11, 2020 of the period during which the Debtor has the exclusive right to file a chapter 11 plan (the “Exclusive Filing Period”) and (ii) an extension through November 12, 2020 of the period during which the Debtor may solicit acceptances thereof (the “Solicitation Period” and together with the Exclusive Filing Period, the “Exclusive Periods”); and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue of this proceeding and the Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due, adequate and sufficient notice of the Motion having been given; and the Court having determined that the relief sought in the Motion is in the best interest of the Debtor, its creditors and all parties-in-interest; and having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED**.
2. Pursuant to section 1121(d) of the Bankruptcy Code, the Exclusive Filing Period is extended through and including September 11, 2020.
3. Pursuant to section 1121(d) of the Bankruptcy Code, the Solicitation Period is extended through and including November 12, 2020.
4. The extension of the Exclusive Periods granted herein is without prejudice to further requests that may be made pursuant to section 1121(d) of the Bankruptcy Code.
5. The Court shall retain jurisdiction over all matters arising from or related to the interpretation or implementation of this order.

END OF ORDER