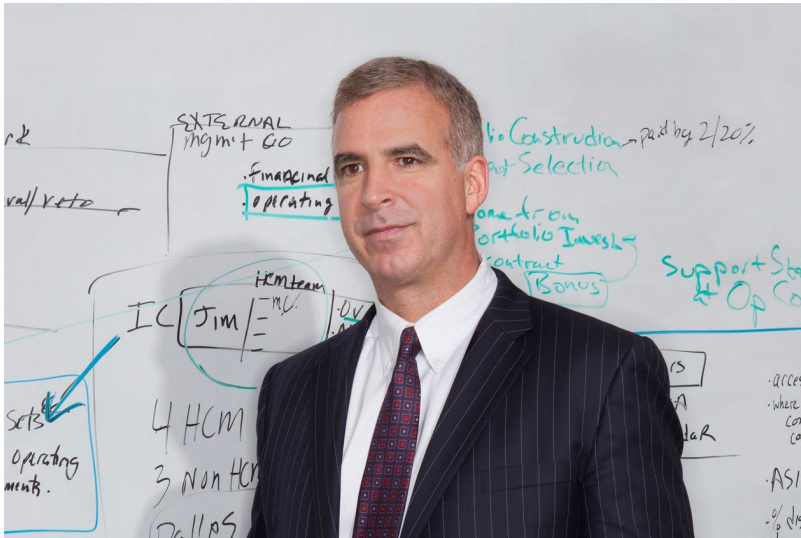


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Highland Capital Management LP Creditor Likely to Press for Chapter 11 Trustee

Lawyer for Acis Capital Management LP, a former Highland unit, said it would likely seek the appointment of a chapter 11 trustee



Highland Capital co-founder Jim Dondero, pictured here in 2011. PHOTO: BRENT HUMPHREYS

By Andrew Scurria

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Highland Capital Management LP appeared for the first time in bankruptcy court as creditors' lawyers questioned the fund manager's corporate governance and previewed a potential battle over control of the restructuring process.

The Dallas-based firm appeared Friday in the U.S. Bankruptcy Court in Wilmington, Del., after seeking court protection from investors in a failed Highland hedge fund that were trying to enforce a \$189 million arbitration award.

The fund manager is one of several investment units under the same ownership, including Highland Capital Management Fund Advisors LP and NexPoint Advisors LP, which didn't file for bankruptcy.

In addition to the arbitration fight with those investors, Highland has been sparring in recent years with former employees Patrick Daugherty and Josh Terry, who are each creditors in the

bankruptcy.

Highland lawyer Ira Kharasch said he believed the firm was solvent, notwithstanding the disputed and contingent claims from creditors, but that a substantial portion of its assets are highly illiquid.

Highland listed as its largest debt in bankruptcy filings the disputed arbitration award in favor of investors in Highland Crusader Fund, a hedge fund that took heavy losses during the financial crisis and has been in liquidation since then.

Marc Hankin, a lawyer for Crusader Fund investors, told Judge Christopher Sontchi that Highland executives had been found to have breached fiduciary duties and made false statements.

While Highland has brought in outside advisers to steer the firm through the chapter 11 process, Mr. Hankin said he had concerns about the arrangement because the chief restructuring officer reports to Highland co-founder Jim Dondero. Mr. Hankin also said he believed evidence would show that Mr. Dondero owes Highland tens of millions of dollars.

Highland also listed as a creditor Acis Capital Management LP, a collateralized loan obligation manager that was formerly part of Highland and is now owned by Mr. Terry.

After his termination from Highland in 2016, Mr. Terry won an \$8 million award against Acis and—worried its assets were being transferred to other Highland entities—forced the CLO manager into bankruptcy. Acis emerged from bankruptcy in February holding what it said were legal claims against Highland, Mr. Dondero and the firm's co-founder Mark Okada.

Acis lawyer Rakhee Patel said at Friday's hearing that the company would likely seek the appointment of a chapter 11 trustee to take decision-making authority in the bankruptcy away from Highland and Mr. Dondero.

"Mr. Dondero for far too long has played a dangerous litigation game and the chickens have finally come home to roost," Ms. Patel said.

"The overwhelming body of evidence," she said, "is that Mr. Dondero is not worthy of placing the trust of the fate of 70-plus employees and hundreds of millions of dollars of creditors' claims in his hands to do as he wishes."

A Highland spokesperson said the concerns and allegations expressed by creditors at the hearing are "without merit." The firm's goal "is to conduct this reorganization in an orderly manner that creates value for all constituents, and we trust the court to direct the process toward that outcome," the spokesperson said.

In addition, the spokesperson said other affiliated businesses have continued to operate without disruption and that bankruptcy-court orders entered Friday “extend that same stability” to Highland.

Highland has subpoenaed The Wall Street Journal related to the litigation between the firm and Mr. Daugherty. Dow Jones, the Journal’s parent company, has challenged the subpoena and the matter is pending.

A New York Supreme Court last year dismissed a defamation lawsuit Highland filed against Dow Jones, Journal reporter Matt Wirz and Journal editor Aaron Kuriloff over an article in the Journal about the investment firm. Highland has appealed the ruling.

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