EFiled: Apr 24 2026 10:48PM EDT
Filing ID 79305711
Case Number 142,2026

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ELLER ASSOCIATES INC.; ELLER INTERNATIONAL INC.; ELLER 2 ASSOCIATES INC.; ELLER 2 INTERNATIONAL INC.; and ELLIOTT INVESTMENT MANAGEMENT L.P.; *Plaintiffs Below/Appellants/Cross-Appellees*, v. SRP CAPITAL ADVISORS LLC; RYAN A. TURNER; SRP OPPORTUNITIES II, GP, LP; SRPO-II PARTNERS I, GP, LP; SRP OPPORTUNITIES III GP, LP; SRP PONTIAC MANAGEMENT SERVICES, LLC; SRP MERCURY MANAGEMENT SERVICES, LLC; RAT MERCURY A HOLDINGS, LLC; RAT PONTIAC A HOLDINGS, LLC; RAT MERCURY B HOLDINGS, LLC; RAT PONTIAC B HOLDINGS, LLC; FORD MINERAL ACQUISITIONS, LLC; SRP PONTIAC EMPLOYEE HOLDINGS LLC; and SRP MERCURY EMPLOYEE HOLDINGS LLC *Defendants Below/Appellees/Cross-Appellants.*	No. 142, 2026 Court Below: Court of Chancery of the State of Delaware C.A. No. 2025-1095-BWD

APPELLANTS' OPENING BRIEF

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NATURE OF PROCEEDINGS

This narrow appeal seeks to correct a contract construction error in the Court of Chancery's implementing order. After properly granting Plaintiffs' motion to enforce the parties' Settlement Agreement, which obligated Defendants to winddown their investment funds, the court erroneously undermined that relief by issuing an order that departed from the text of the agreement and rendered the winddown impracticable.

This case arises out of a settlement agreement entered into after Plaintiff Elliott Investment Management L.P. (together with its affiliates, "Elliott") discovered that Defendant SRP Capital Advisors LLC (which does business as Stronghold Resource Partners, "Stronghold"), the controller of the fund in which Plaintiffs invested, was misappropriating investor funds. The Settlement Agreement required Stronghold to return the $27 million it had misappropriated and, importantly for this appeal, end the parties' relationship by mandating a sale of assets by a set deadline. However, rather than completing the requisite winddown of the investment funds—namely, SRP Opportunities II, LP ("SRP II") and SRPO-II Partners I, LP ("SRP II Sidecar," and with SRP II, "Fund II")—Stronghold continued purchasing $61 million in additional assets while dramatically increasing the expenses it charged to Fund II, amounting to $107 million from 2023 to 2025.

Stronghold's post-settlement actions breached the Settlement Agreement's intent and express terms.

Plaintiffs brought suit in the Court of Chancery on September 25, 2025, alleging (*inter alia*) breach of the Settlement Agreement for Defendants' failure to winddown Fund II. The Court of Chancery granted summary judgment for Plaintiffs on this claim, ruling that "[t]he undisputed record here establishes that defendants have breached Section 7(a) of the settlement agreement by failing to sell Fund II's remaining assets." Ex. A (the "Bench Ruling") at 82. The parties agreed that a Special Magistrate would conduct the winddown, but they disagreed on the form of the implementing order. In a February 6, 2026 Letter Opinion and Order, the Court of Chancery accepted Defendants' argument that the term "assets" in the Settlement Agreement was limited solely to equity interests in Fund II's portfolio companies. Ex. B (the "Letter Opinion") at 7-8. Thus, the Special Magistrate would be limited to selling only those equity interests and not the underlying oil and gas mineral rights and leasehold assets held by the portfolio companies—the same assets that Stronghold has been causing Fund II to buy and sell for years that are the actual source of Fund II's value.

Plaintiffs appeal from this order, and for the reasons set forth below, this Court should reverse, vacate the implementing order, and remand with instructions to direct the entry of a new implementing order that authorizes and directs the Special

Magistrate to sell all assets owned by Fund II, including the underlying oil and gas mineral rights and leasehold assets held by its portfolio companies. Such an order is necessary to enforce the Settlement Agreement as written, provide Elliott with the benefit of its bargained-for winddown, and empower the Special Magistrate to conduct a value-maximizing sale process that safeguards the interests of all fund investors.

SUMMARY OF ARGUMENT

1. The Court of Chancery erred in narrowly construing the winddown provision of the Settlement Agreement to permit only the sale of Fund II's equity interests in portfolio companies that own oil and gas mineral rights and leasehold assets. The court's construction conflicts with the plain language of the winddown provision, which (a) uses the broader term "all assets," meaning anything owned that has value, rather than "equity interests," and (b) expressly contemplates sales through Fund II's "affiliates," which indisputably include its portfolio companies. The court's ruling also defies the parties' course of performance—Stronghold routinely buys and sells the underlying oil and gas mineral rights and leasehold assets, not the portfolio companies' "equity interests." The commercial reality is that limiting sales only to equity interests, which is not how Fund II operates, would substantially frustrate the winddown sale the court ordered as necessary under the Settlement Agreement.

2. The plain text of the Settlement Agreement establishes that the "assets" to be sold include the mineral rights and leasehold assets Fund II owns through its portfolio companies, which are special purpose vehicles that Stronghold created only to hold those mineral rights and leasehold assets. The Settlement Agreement repeatedly uses the term "asset" to refer to mineral rights and leasehold assets and uses the term "equity interests" when it is referring only to portfolio companies'

equity interests. The use of the broader phrase "all assets" in the winddown provision was therefore deliberate and should be interpreted broadly, not narrowly.

3. On reargument, the Court of Chancery accepted that "all assets" may be broader than equity interests, but nonetheless concluded that only Fund II's "directly held" assets can be sold by the Special Magistrate. However, the Settlement Agreement does not include any "directly held" limitation. The court's ruling thus deleted the broad word "all" from the phrase "all assets," which was contained in the Settlement Agreement, and replaced it with the narrow phrase "directly held," which was not. The Settlement Agreement leaves no doubt that the winddown includes sale of the underlying assets held by portfolio companies, not merely the equity of the portfolio companies themselves, because it expressly states that the parties conducting the winddown must "cause their applicable Affiliate to" sell "all assets." The portfolio companies undisputedly are "Affiliates" of Fund II and, accordingly, their assets are necessarily covered by this provision. Thus, the court's "directly held" limitation conflicts with the Settlement Agreement's inclusion of Affiliates.

4. The Court of Chancery's ruling also creates an unnecessary conflict with the Fund II LPAs, which recognize that investments acquired and held through the portfolio companies should be treated as investments of Fund II itself, and which also recognize that a winddown not governed by the Settlement Agreement would

include assets held indirectly through the portfolio companies. The Special Magistrate, who stands in the Fund II General Partners' shoes under the order, should have the same authority to sell such mineral rights and leasehold assets.

5. The course of performance confirms the plain-text understanding of "all assets" as covering more than equity interests in the portfolio companies. Over the past eight years, Stronghold has caused Fund II to buy and sell hundreds of millions of dollars of mineral rights and leasehold assets in over 4,300 transactions through the portfolio companies Stronghold originated; it has not identified a single sale of equity interests in those portfolio companies. And when Stronghold described "assets" under the Settlement Agreement, in monthly reports to Plaintiffs and in court filings specifically concerning the winddown provision, Stronghold consistently did so with reference to Fund II's underlying mineral rights and leasehold assets. Indeed, only after Defendants lost summary judgment and disputed the form of the order, did they invent the argument that "all assets" to be sold in the winddown were limited to equity interests.

6. The commercial context here also strongly supports the construction of "all assets" as including the mineral rights and leasehold assets held by the portfolio companies. The express and undisputed goal in the winddown is to maximize the value of the asset sales for Fund II. If the Special Magistrate could sell only the portfolio companies' equity interests, that would substantially undermine this value-

maximizing goal given how the portfolio companies are constructed, with individual portfolio companies holding myriad mineral rights and leasehold assets that buyers generally would want to purchase selectively. Indeed, that is another reason why the Settlement Agreement's winddown provision allows the sale of any assets—including through Affiliates—and there is no basis to undermine the sale with narrowing language that does not exist in the Settlement Agreement.

STATEMENT OF FACTS

A. Elliott Invests in Stronghold-Managed Funds and Stronghold Misappropriates Tens of Millions of Dollars

Elliott is a multi-strategy investment manager with nearly $80 billion in assets under management that manages two large investment funds that own the "Eller" entity plaintiffs. A27-29 ¶¶ 16-21. Stronghold is an investment manager founded and controlled by Defendant Ryan Turner that focuses on investments in the oil and gas space in the Permian Basin in Texas and New Mexico. A29 ¶ 22; A32 ¶ 27; A627-628 ¶¶ 3-6.

In 2017, Elliott began working with Turner to invest in oil and gas mineral rights and leasehold assets. A36 ¶ 36. Elliott would provide capital, and Turner—through Stronghold and its affiliates—would use that capital to acquire mineral rights and leasehold assets in the Permian Basin. A36-37 ¶¶ 36-39. Stronghold deployed the capital invested in Fund II through portfolio companies that Stronghold created. A38 ¶ 41. In total, Fund II holds preferred equity interests in approximately twenty separate portfolio companies, each structured as a special purpose vehicle created for the sole purpose of acquiring mineral rights and leasehold assets on behalf of Fund II. A631 ¶ 15. Unlike in a traditional private equity structure, where portfolio companies maintain their own management and operations teams, these portfolio companies outsource many of those functions to Stronghold and typically have limited activities independent of Stronghold. *Id.*; A38 ¶ 42; A628 ¶ 6.

Stronghold directly controls and manages these portfolio companies and uses its own employees to provide services to the portfolio companies. *Id.*; A39 ¶ 45. And while certain of these portfolio companies have a third-party common member with contingent profit rights (though most either do not have a common member or no longer do), these portfolio companies are all fully controlled by Turner through his management of Fund II. *Id.*; *see* A585. Simply put, Stronghold fully controls the buying and selling of the mineral rights and leasehold assets held by the portfolio companies.

Through the Eller Plaintiffs, Elliott invested $18 million to acquire a 16% equity stake in SRP II and invested an additional $79 million in Fund II through SRP II Sidecar. A37 ¶¶ 38-39. This $97 million total investment represents 47% of Fund II's investor-committed capital. *Id.* ¶ 39.

Between 2017 and 2021, Elliott and Stronghold formed three additional joint ventures—known as Pontiac, Mercury, and Ford—also to acquire and manage mineral rights and leasehold assets. A44 ¶¶ 56-57.[1] In June 2021, Elliott sought financial statements from these entities, but Stronghold was evasive and did not provide them until November 2021. A45 ¶¶ 58-59. Upon reviewing the financial statements containing unexplained line items showing roughly $11 million dollars

[1] Elliott also made smaller investments in Stronghold-managed entities known as Fund III, Yukon, and Junction. A38-39 ¶ 43.

"due from affiliates," Elliott pressed for an explanation and Stronghold finally admitted taking $13 million from Pontiac and Mercury's bank accounts. *Id.* ¶ 60.

Elliott was highly concerned by this admission and, after pressing for more information and hiring a forensic auditor, discovered that Stronghold actually had taken almost $24 million from Pontiac and Mercury and an additional $3.5 million from Ford. A46 ¶¶ 61-64. In short, Turner and Stronghold had misappropriated tens of millions of dollars from entities they were entrusted to manage and then lied when confronted with their wrongdoing. A47 ¶ 66.

B. Elliott Negotiates for a Clean Break from Stronghold and a Winddown of Fund II

As a result of Stronghold's misappropriation, Elliott negotiated an orderly separation from Turner and Stronghold. A47-48 ¶¶ 67-68. Accordingly, on August 10, 2022, Elliott and the "SRP Parties,"[2] including Turner personally, signed a Settlement Agreement that required Stronghold to return the $27 million it had misappropriated to Pontiac, Mercury, and Ford, while reimbursing Elliott the more

[2] The Settlement Agreement defines the "SRP Parties" as Ryan Turner, his former business partner William Fennebresque, and certain entities affiliated with Turner and Fennebresque: SRP Pontiac Management Services, LLC, SRP Mercury Management Services, LLC, RAT Mercury A Holdings, LLC, WTF Mercury A Holdings, LLC, RAT Pontiac A Holdings, LLC, WTF Pontiac A Holdings, LLC, RAT Mercury B Holdings, LLC, WTF Mercury B Holdings, LLC, SRP Mercury Employee Holdings, LLC, RAT Pontiac B Holdings, LLC, WTF Pontiac B Holdings, LLC, Ford Mineral Acquisitions, LLC, SRP Pontiac Employee Holdings LLC, and SRP Mercury Employee Holdings LLC. A99.

than $2 million it had expended in investigating Stronghold's wrongdoing. A48 ¶¶ 68-70; *see* A122-125. Further, Elliott negotiated for a complete end to its relationship with Stronghold. A48 ¶ 68. This business divorce involved two primary components. First, Stronghold transferred full control of Pontiac, Mercury, and Ford to affiliates of Elliott. A48-49 ¶ 71. Second, Turner agreed to winddown Fund II and return capital to all investors, including Elliott. A49 ¶ 72.

The winddown requirements are set forth in Section 7 of the Settlement Agreement—titled "Sale and Winddown of Certain Investments; Termination of FOLA." A105 § 7. That section begins by noting that "[t]he Parties agree that the SRP Parties shall sell the assets of SRP II, SRP II Sidecar, . . . and wind down each of the entities . . . ." *Id.*

Section 7(a) then details the Fund II winddown process, whereby "the SRP Parties will (or will cause their applicable Affiliate to)" take the following actions. *Id.* First, the SRP Parties agreed to (directly, or through their Affiliates) "promptly begin to seek to sell ***all remaining assets***." *Id.* § 7(a)(i) (emphasis added). Second, the SRP Parties agreed to "[s]ell ***all assets*** to third-parties by December 31, 2023, subject to an extension on a quarter by quarter basis, but not past December 31, 2024, if an AmLaw 100 firm not previously retained by any of the SRP Parties or their Affiliates provides a written opinion to the applicable Elliott Parties that the SRP Parties would be violating their fiduciary duties by effectuating such sales." *Id.*

§ 7(a)(ii) (emphasis added). This makes clear that the sales of "***all assets***" must be completed by December 31, 2023, though that deadline could be extended if Elliott were provided an opinion of AmLaw 100 counsel saying that such delay was necessary to avoid fiduciary breach. Third, the SRP Parties agreed to "[p]romptly distribute proceeds from sales of ***any assets*** no later than 30 days following receipt of applicable proceeds from such sale unless otherwise agreed to by [Elliott] in writing . . . ." *Id.* § 7(a)(iii) (emphasis added). Thus, for any asset sale, the proceeds would be promptly distributed to Fund II's investors and not reinvested in acquiring additional mineral rights and leasehold assets.

Last, Section 7(a) provides:

> Notwithstanding the foregoing, the SRP Parties' shall not be required to effect sales of assets in a manner that they reasonably determine in good faith (upon written advice of reasonably qualified investment funds counsel) would be reasonably likely to result in a violation of applicable fiduciary or investment adviser duties owed to a fund effecting such sales or to such a fund's investors with respect to their investment in such fund. The SRP Parties shall use reasonable best efforts to effect the sales prior to the end of the required time periods in a manner compliant with such fiduciary or investment adviser duties and, in the event of delay, shall use reasonable best efforts to effect the applicable sales as soon as practicable in compliance with such fiduciary or investment adviser duties.

Id. § 7(a). This provision allowed Stronghold to delay selling specific individual assets if the "manner" of such sales would be reasonably likely to result in a fiduciary breach.

C. After the Settlement, Stronghold Refuses to Winddown Fund II and Dramatically Increases the Expenses It Charges Fund II

The Settlement Agreement required that Stronghold "immediately" begin winding down by selling "all remaining assets" of Fund II upon signing. Turner and Stronghold did not comply with that obligation and Stronghold did not winddown Fund II by December 31, 2023. A54 ¶ 84. Nor did Stronghold obtain and provide to Elliott the quarterly AmLaw 100 opinion necessary to extend the winddown date. A53-54 ¶¶ 84, 88. And, even if Stronghold had done so, it did not complete the liquidation of Fund II by December 31, 2024. *Id.* ¶¶ 84-87.

Instead, Stronghold continued operating Fund II in the ordinary course, causing Fund II to acquire additional mineral rights and leasehold assets. *Id.* ¶¶ 85-86; A639-640 ¶ 36. Indeed, after execution of the Settlement Agreement, Stronghold acquired nearly $61 million in additional assets for Fund II, and in twelve of the post-Settlement months, Stronghold did not sell any assets at all. A53-54 ¶¶ 85-86. Stronghold has argued that it was justified in ignoring the winddown provision so long as it made a determination, in its sole discretion and supported by "reasonably qualified investment funds counsel," that winding down the Fund was reasonably likely to result in a breach of fiduciary duty. A453-455. It reasoned that the Settlement Agreement allowed it full discretion to pursue the "optimal risk-adjusted return for investors." A700.

In addition, immediately after the Settlement Agreement was signed in August 2022, Stronghold began dramatically increasing the expenses it charged to Fund II when it was supposed to be simply selling Fund II's assets. In 2022, Stronghold charged roughly $19 million in expenses to Fund II. A59 ¶ 102. In each year thereafter, the expenses were much higher, with $44.5 million in expenses in 2023 and roughly $40 million in 2025. A59 ¶ 102; A70 ¶ 135. This increase in expenses was largely attributable to expenses charged to four "black box" expense categories into which Plaintiffs still have almost no insight. A59 ¶ 103.

D. The Court of Chancery Grants Plaintiffs' Partial Summary Judgment Motion

Plaintiffs filed their Verified Complaint on September 25, 2025. Count IV of that Complaint alleges breach of the Settlement Agreement for failure to winddown Fund II. A86-87 ¶¶ 194-200. Alongside the Complaint, Plaintiffs filed a motion for partial summary judgment on Count IV, seeking specific performance of the winddown, as well as a motion to expedite consideration of that summary judgment motion. Stronghold stipulated to expedition and the parties engaged in expedited briefing.

On December 19, 2025, following oral argument, the Court of Chancery issued a bench ruling granting Plaintiffs' motion for partial summary judgment. Ex. A. The court held that "[t]he undisputed record here establishes that defendants have breached Section 7(a) of the settlement agreement by failing to sell Fund II's

remaining assets." Ex. A at 82. The court rejected Stronghold's fiduciary duty argument because the language on which Stronghold relied "by its plain terms, addresses the 'manner' in which sales may be effected . . . it does not obviate the requirement in Section 7(a) to sell all assets by the December 31st, 2023, deadline or December 31st, 2024, extension, or otherwise contemplate a scenario in which defendants are not actively pursuing asset sales." *Id.* at 83-84; *see id.* at 85 ("[T]his sentence cannot reasonably be read to permit defendants to operate in the ordinary course rather than selling down assets if they determine that market conditions are better for buying than for selling."). The court explained that Stronghold's reading of the Settlement Agreement was "contrary to the parties' intent, as reflected in the contract, to provide for an orderly termination of the parties' relationship" and "also would lead to absurd results," allowing Stronghold to delay a winddown indefinitely. *Id.* at 85-86.

The court then determined that Plaintiffs were entitled to specific performance of the winddown provision, finding that "[t]he harm that the plaintiffs continue to suffer from Stronghold's breach of the wind-down provisions is difficult to measure, such that a monetary award likely could not fully compensate plaintiffs for their loss." *Id.* at 89-90. The court also found that "the equities here favor enforcing plaintiffs' unambiguous contract rights under the settlement agreement" and that Stronghold's asserted factual disputes were irrelevant. *Id.* at 91. The court expressed some "pause"

regarding purported impracticalities with winding down Fund II, but determined that, should the parties find her order "unworkable, the appointment of a receiver to effectuate a wind-down presents a logical next step." *Id.* at 92.

E. In the Implementing Order, the Court of Chancery Limited the Phrase "All Assets" to Only Directly-Held Equity Interests

After the summary judgment decision, the parties met and conferred regarding the appropriate form of order implementing the Bench Ruling. They agreed that the winddown of Fund II should be conducted by an independent Special Magistrate selected by the parties and approved by the Court of Chancery. But the parties disagreed regarding how the Special Magistrate would be required to winddown Fund II.

As relevant to this appeal, the parties disagreed regarding what "assets" of Fund II the Special Magistrate would sell. Plaintiffs asserted that the Settlement Agreement's unambiguous language, as well as the commercial context in which the parties operate, demonstrates that "all assets" encompasses both the equity interests Fund II owns in its portfolio companies and the portfolio companies' underlying mineral rights and leasehold assets. In other words, Plaintiffs asserted that the Special Magistrate should have discretion to winddown Fund II by selling its assets in the manner the Special Magistrate believes is value maximizing. Stronghold disagreed and, for the first time, argued that "***all assets***" in the Settlement Agreement means only the portfolio company equity interests ***directly held*** by Fund II, and that

the Special Magistrate should therefore not be permitted to sell the portfolio companies' mineral rights and leasehold assets even if it determined that doing so would realize greater value for Fund II's limited partners. This dramatically differed from its summary judgment briefing where it repeatedly discussed the winddown in terms of a sale of the Fund II portfolio company oil and gas mineral rights and leasehold assets. *See, e.g.*, A639 ¶ 34 ("Following the Settlement Agreement, market conditions were not favorable for a rapid sell down ***of assets of the portfolio companies of Fund II***.") (emphasis added).

The Court of Chancery resolved the parties' dispute in a February 6, 2026 Letter Opinion and Order. Exs. B-C. In that Letter Opinion, the court held: "Section 7 of the Settlement Agreement requires the SRP Parties to 'sell the *assets of SRP II* [and] [*Sidecar*] . . . and wind down each of the entities.' Agt. § 7 (emphasis added). SRP II and Sidecar own equity interests or securities in portfolio companies; thus, those are the 'Assets' that must be sold." Ex. B at 7. Plaintiffs moved for reargument and, on March 12, 2026, the Court of Chancery denied that motion, holding that the Special Magistrate could sell the portfolio company's equity interests but that "if Fund II directly holds oil and gas interests, then those ***directly held*** interests also must be sold." Ex. D ("Order on Reconsideration") (emphasis added). Plaintiffs filed this appeal on April 3, 2026.

ARGUMENT

THE COURT OF CHANCERY ERRED IN CONSTRUING THE SETTLEMENT AGREEMENT TO ALLOW FOR THE SALE ONLY OF FUND II'S EQUITY INTERESTS IN PORTFOLIO COMPANIES

A. Question Presented

Did the Court of Chancery err in narrowly construing "all assets" in the Settlement Agreement to refer only to Fund II's directly-held equity interests in portfolio companies rather than such equity interests as well as the mineral rights and leasehold assets beneficially owned by Fund II through the portfolio companies that Stronghold created, controls, and manages? A690-691; A700-701.

B. Scope of Review

This appeal stems from the Court of Chancery's construction of "all assets" in the Settlement Agreement. "The proper construction of any contract . . . is purely a question of law, so we review questions of contract interpretation de novo." *Exelon Generation Acquisitions, LLC v. Deere & Co.*, 176 A.3d 1262, 1266-67 (Del. 2017) (internal quotation marks and footnote omitted).

C. Merits of Argument

1. The Text and Structure of the Settlement Agreement Show "All Assets" Means Anything of Value Directly or Indirectly Held by Fund II

"When interpreting a contract, the role of a court is to effectuate the parties' intent. In doing so, we are constrained by a combination of the parties' words and the plain meaning of those words where no special meaning is intended." *Lorillard*

Tobacco Co. v. Am. Legacy Found., 903 A.2d 728, 739 (Del. 2006). The Settlement Agreement does not define the term "asset" or the phrase "all assets." *See* A99-115. Thus, these words should be afforded their ordinary meaning within the parties' commercial context. *See T.V. Spano Bldg. Corp. v. Dep't of Nat. Res. & Env't Control*, 628 A.2d 53, 58 (Del. 1993) ("[U]ndefined words will be given their ordinary, common meaning."). The Court of Chancery erred in defining "asset" to mean only the equity interests held by Fund II in its controlled portfolio companies rather than giving that word its plain meaning of anything of value held beneficially and controlled by Fund II.

First, the text of the Settlement Agreement establishes that "all assets" has a meaning broader than "equity interests." Section 7 requires the sale of "all assets of" Fund II. A105 § 7(a)(ii). It does not limit the sale to the "equity interests" of portfolio companies owned by Fund II. This distinction is meaningful because the Settlement Agreement and its attachments also use the more specific term "equity interests," making clear that the concepts are distinct. For example, the Settlement Agreement's definition of "Restricted Opportunity" expressly distinguishes between "oil and gas assets" and "equity interests" by excluding the "bona fide sale of[] oil and gas assets ***or*** equity interests . . . ." A114 § 24(g)(xiii) (emphasis added); *see also* A103 § 6(a); A105 § 7(b), A112 § 23 (using the phrase "equity interests"). The LLC agreements attached to the Settlement Agreement also repeatedly distinguish

between "assets" and "equity interests." *See* A201 (defining Liquidity Event to include sale of "substantially all of the assets of the Company" ***or*** the sale of "substantially all of the equity interests in the Company"); A240 § 9.04(d) (requiring Board approval to "acquir[e] . . . any assets ***or*** any equity interest") (emphasis added). The Settlement Agreement and its attachments thereby expressly distinguish between oil and gas mineral rights and leasehold assets on the one hand and portfolio company equity interests on the other, making clear that, at the very least, "asset" does not only mean "equity interest." *See Lukk v. State Farm Mut. Auto. Ins. Co.*, 2014 WL 4247767, at *4 (Del. Super. Aug. 27, 2014), *as corrected* (Aug. 29, 2014) ("When different words are used in two clauses like this it must be presumed different meanings are intended.").

Similarly, the Settlement Agreement defines "acquire" or "acquisition" as "the obtaining of ***a Mineral Interest*** by or on behalf of the applicable Person or any of its Affiliates by the direct or indirect acquisition . . . ***of such asset*** . . . ." A113 § 24(g)(i) (emphasis added).[3] This definition recognizes that the word "asset" includes a reference to a "mineral interest" and therefore cannot be limited to "equity

[3] "Mineral Interest" is defined to include "any fee mineral interests, including nonexecutive and/or non-participating mineral interests and term mineral interests," A113, and "any non-participating royalty interests, term royalty interests, overriding royalty interest burdening a Lease and any other royalty interests and non-cost bearing interests in the production of minerals, including production payments, net profits interests, and term royalties," A114.

interests." In addition, a later subsection uses the word "assets" with "oil and gas," making clear that the Settlement Agreement recognizes specifically that "oil and gas" mineral rights and leasehold assets are "assets." *See* A114 § 24(g)(xiii) (referring to "oil and gas assets or equity interests of a Person directly or indirectly holding oil and gas assets").

The Settlement Agreement's treatment of "assets" as something different and broader than "equity interest" is consistent with the usual meaning of "assets." "Under well-settled case law, Delaware courts look to dictionaries for assistance in determining the plain meaning of terms which are not defined in a contract." *Lorillard Tobacco*, 903 A.2d at 738. The dictionary definition of "assets" is "the entire property of a person, association, corporation, or estate applicable or subject to the payment of debts." *Assets*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/assets (last visited Apr. 24, 2026). Thus, the usual definition of "assets" is not limited to any particular kind of asset, let alone only equity interests.

Both at oral argument on the summary judgment motion and on reargument, the Court of Chancery accepted that "assets" can be broader than equity interests, *see* Ex. A at 78; Ex. D at 3-4, as did Stronghold, *see* A639 ¶¶ 34-36, but the court failed to accept the implications of this concession. The court noted that "[t]he Special Magistrate is not restricted to selling only equity interests; if Fund II directly

holds oil and gas interests, then those directly held interests also must be sold." Ex. D at 3-4. But Fund II does not directly hold mineral rights and leasehold assets; it holds them through SPV portfolio companies it owns and controls. A628 ¶ 6. The parties obviously knew this basic fact about Fund II's operations when they entered into the Settlement Agreement. Thus, the Court of Chancery's interpretation does nothing to explain why the parties chose to refer to the sale of "all assets" rather than "equity interests." The only explanation is that the parties understood "all assets" to cover more than Fund II's "equity interests."

Second, the text of the Settlement Agreement also establishes that the assets to be sold include *both* Fund II's directly held equity interests in the portfolio companies *and* its indirect interests in the mineral rights and leasehold assets held by those Stronghold-controlled portfolio companies. Section 7 expressly addresses subsidiaries and other controlled affiliates, which by definition include the portfolio companies through which Fund II beneficially owns mineral interests. Section 7(a) provides: "As to [Fund II], the Parties agree that the SRP Parties will (***or will cause their applicable Affiliate to***): i. Promptly begin to seek to sell all remaining assets . . . ." A105 § 7(a) (emphasis added). "Affiliate" is defined broadly as "any other Person that directly or indirectly Controls, is Controlled by or is under common Control with" a person. A113 § 24(g)(ii). Stronghold does not dispute that it controls the portfolio companies. *See* A708 ¶ 2 (citing A431 ("Fund II … actively

manages portfolio companies that buy and sell oil and gas interests")). Thus, Fund II's portfolio companies are Affiliates, and the SRP Parties "will cause" them to sell those Affiliates' assets.

This alone shows the Court of Chancery erred in rejecting the Special Magistrate's authority to sell mineral rights and leasehold assets simply because those assets are not "directly held" by Fund II. Ex. D at 3-4. The words "directly held" appear nowhere in the Settlement Agreement. Rather, the Settlement Agreement refers simply to "all assets of" Fund II and expressly includes "[a]ffiliate[s]." *See* A105 § 7. The portfolio companies of Fund II are "Affiliates," and Stronghold could cause them to sell the mineral rights and leasehold assets those portfolio companies owned. The court's limitation of sales to directly held assets thereby impermissibly inserted a limitation into the Settlement Agreement inconsistent with its plain text. *Lorillard Tobacco*, 903 A.2d at 739 (the court may not construe contract language to "create a new contract with rights, liabilities and duties to which the parties had not assented") (quotation omitted). That is especially problematic given the deliberate use of "all assets," as discussed above. The parties chose to include "all assets" and "Affiliates," and that choice would be nonsensical if the sale were intended to cover only equity interests and direct holdings.

Moreover, in describing the sale of assets and distribution of proceeds therefrom, the Settlement Agreement makes clear that there is no limitation to assets

directly held by Fund II. In the winddown provision, when discussing what "the SRP Parties will (or will cause their applicable Affiliate to)" do, the Settlement Agreement states that they will "Promptly begin to seek to sell all remaining assets." A105 § 7(a)(i). This broad inclusion of "all remaining assets" does not limit itself to assets directly held by Fund II. The same provision also states that they will "Promptly distribute proceeds from sales of any asset." *Id.* § 7(a)(iii). Once again, there is no limitation on "any asset."

Indeed, importing such a limitation into the contract contradicts the court's summary judgment ruling. Stronghold had argued that Section 7(a) permitted it to reinvest proceeds of oil and gas mineral rights and leasehold assets if it determined doing so was value maximizing. Ex. A at 78-79. The court expressly rejected that argument, holding that although "Fund II has sold many assets since the Settlement Agreement," as required by Section 7(a), Stronghold breached Section 7(a)(iii) by "us[ing] proceeds to acquire additional assets instead of distributing them . . . ." *Id.* at 87. The court specifically recognized that these "assets" being sold were the oil and gas mineral rights and leasehold assets of Fund II's portfolio companies: "Stronghold represents that since the settlement agreement, Fund II's portfolio companies have sold 712 assets, but have also purchased 377 assets, 280 of which have been sold." Ex. A at 87. It cannot be that Stronghold breached Section 7(a)(iii) by refusing to distribute "proceeds" of the sales of the portfolio companies' oil and

gas "assets," but that the "assets" referred to in the Settlement Agreement are only those directly held by Fund II. The Court of Chancery had it right the first time—Stronghold must sell the portfolio companies' oil and gas mineral rights and leasehold assets and distribute the proceeds to limited partners.

2. The Court of Chancery's "Directly Held" Limitation on "All Assets" Conflicts with the Fund II LPAs

Even putting aside the "Affiliates" language and the unqualified use of "assets" in Section 7(a), the assets of Fund II necessarily include the assets of the portfolio companies that Fund II controls. The Fund II LPAs expressly provide that mineral rights and leasehold assets acquired and held through the portfolio companies are also treated as investments of Fund II itself. *See* A517 § 2.3(c) ("[I]f the Partnership purchases or holds any or a group of Investments through Special Purpose Entities, Subsidiary AIVs or other Subsidiaries, any . . . limitations or obligations set forth in this Agreement shall not be deemed to apply to such Special Purpose Entities, Subsidiary AIVs or other Subsidiaries and shall instead be applied on a ***look-through*** basis at the Investment level . . . .") (emphasis added). In other words, despite the use of SPV portfolio companies to acquire the mineral rights and leasehold assets, the SRP II LPA recognized that those assets were held on a "look-through basis" by the Fund II partnerships.

The Court of Chancery disregarded the "look-through" provision because it is not in the Settlement Agreement itself, *see* Ex. D at 4, but the Settlement Agreement

states that "all agreements referenced herein shall remain in full force and effect except to the extent modified by this Agreement or the agreements contemplated hereby . . . ." A110 § 13. Nothing in the Settlement Agreement modified the look-through provision of the Fund II LPAs. Thus, that provision "remain[s] in full force and effect," per the Settlement Agreement.

The Court of Chancery further erred in suggesting that the look-through clause "is constrained to 'limitations or obligations set forth in [the Fund II LPAs].'" Ex. D at 4 (quoting A517 § 2.3(c)). The Fund II LPAs identify no situation where the look-through clause would not apply, and they plainly intended to apply the look-through provision broadly, as the clause covers "any investment guideline, requirement to make distributions and other limitations or obligations set forth in this Agreement." A517 § 2.3(c). The Fund II LPAs' obligations include the winding-up procedures that are the subject of the Settlement Agreement here. A569-571 § 8.2. The fact that the obligations now are being enforced through a settlement does not change the fact that the look-through provision still applies to those obligations. Regardless, even if the "look-through" provision were not strictly binding, it is, at a minimum, strong evidence that the parties generally understood "all assets" to include mineral rights and leasehold assets owned by the portfolio companies. *See ev3, Inc. v. Lesh*, 114 A.3d 527, 538 n.32 (Del. 2014) ("An earlier agreement may help the interpretation of a later one, but it may not contradict a binding later integrated

agreement.") (quoting RESTATEMENT (SECOND) OF CONTRACTS § 215 (1981)). Nothing in the Settlement Agreement contradicts (or even questions) the look-through understanding of the assets of Fund II, and indeed, the use of the words "all assets" and "Affiliates" only confirms it.

Furthermore, by defining "all assets" to include only Fund II's "directly held" equity interests in portfolio companies, the Order limits the scope of the Special Magistrate's authority beyond the constraints in the LPA that would apply to Stronghold and its General Partner affiliates if they were conducting the winddown that they were obligated to undertake. Section 8.2(a) of the SRP II LPA, which establishes the default procedures for the winding up of the fund, grants the General Partner "sole discretion in determining whether to sell or otherwise dispose of Partnership assets . . . and the timing and manner of such disposition . . . ." A569 § 8.2(a). This grant of discretion as to the "manner" of the "disposition" of Fund II's assets grants the General Partner authority to sell not just the fund's "directly held" assets, but also the underlying mineral rights and leasehold assets—a point Stronghold has never disputed (and previously accepted). A454-455. The parties agreed in the Order that the Special Magistrate "is authorized to act through and in the name of the General Partners" of Fund II in effectuating the winddown. Ex. C ¶ 11. Thus, under the very Order the Court of Chancery entered, the Special

Magistrate should not be subject to constraints not applicable to the General Partners in managing this winddown.

The Court of Chancery did not address this argument, and Defendants did not dispute that had Stronghold complied with the winddown requirements under the Fund II LPAs, Stronghold—or the Fund's General Partners acting through the portfolio company vehicles it controls—should have sold the mineral rights and leasehold assets that Fund II beneficially owns through those controlled portfolio companies. Instead, after Defendants lost summary judgment, they concocted the idea that the Settlement Agreement supposedly did not adopt this approach. A737-738 ¶ 18. As discussed *supra* at 18-25, by its terms, the Settlement Agreement did so. Indeed, the parties never expressed any intention to constrain the Special Magistrate's authority in the Settlement Agreement in a manner that would not apply in a winddown under the Fund II LPAs. The LPAs used materially the same general language of selling "Partnership assets" as was used in the Settlement Agreement. *See* A569-571 § 8.2. And the purpose of both was to maximize the value for the limited partners in a winddown. *See* A569 § 8.2(a) ("[T]he General Partner shall as a general matter seek to maximize the value of such assets . . . ."); Ex. C ¶ 12 ("The Sale Process shall be designed to solicit bids to maximize the amount payable to Fund II limited partners…"). It would be inconsistent with that express purpose to

impose an artificial and unstated constraint in the Settlement Agreement, whereby only equity interests can be sold.

Finally, the Court of Chancery mentioned that two particular arguments—the general use of "asset" in the Settlement Agreement as broader than "equity interest," and incongruity the Order created between the Settlement Agreement and LPAs—were not raised before the motion for reconsideration, but the court did not treat these arguments as waived and in fact considered these arguments on the merits. *See* Ex. D at 3-4. There was no waiver here because Plaintiffs clearly and repeatedly raised before the motion for reconsideration the argument that the Special Magistrate has the authority under the Settlement Agreement to sell the mineral rights and leasehold assets held by the portfolio companies. A690-691; A700-701. Plaintiffs' reargument motion simply raised additional points as further support for its core argument that the assets that should be sold were the mineral rights and leasehold assets. Plaintiffs are entitled to raise any additional reason in support of this argument, as this Court has held in precisely the same circumstances, where a party pointed to other contractual provisions to support the same ultimate contractual argument. *See LGM Holdings, LLC v. Schurder*, 340 A.3d 1134, 1145 n.52 (Del. 2025) ("Highlighting the phrase 'For the avoidance of doubt,' does not raise a new argument or theory, but rather an additional reason to support the Buyers steadfast argument that Section 4(a) only applies to 'Losses attributable' to Governmental

Proceedings. … [W]hen the argument is merely an additional reason in support of a proposition urged below, there is no acceptable reason why in the interest of a speedy end to litigation the argument should not be considered.") (quoting *Mundy v. Holden*, 204 A.2d 83, 87 (Del. 1964)). This reasoning is especially applicable here, as the additional reasons may have not been fully developed in the briefing on the form of order because Stronghold never argued during summary judgment briefing or oral argument that "all assets" in the Settlement Agreement included only portfolio company equity interests and that a winddown would only cover such interests. Its submissions were precisely to the contrary. A637-641 ¶¶ 33-39.

Regardless, this Court has recognized that where the trial court considers the merits of a new argument on a motion for reconsideration, even if it also found the argument waived (and there was no such waiver finding here), this Court should consider the arguments as well. *See Origis USA LLC v. Great Am. Ins. Co.*, 345 A.3d 936, 954 (Del. 2025) ("Given that the trial court did address the Insureds' advancement argument [raised on a motion for clarification], we conclude it has not been waived"); *Lawson v. Preston L. McIlvaine Constr. Co., Inc.*, 552 A.2d 858 (Del. 1988) (TABLE) ("Because the trial judge, *sua sponte*, addressed the merits of the section 2702 claim, the question was fairly presented to the Superior Court and is thus properly before this Court on appeal.").

3. Defendants' Conduct and Statements Confirm the Parties' Understanding That Fund II's Assets Are Not Limited to Directly-Held Equity Interests

The parties' performance of the Settlement Agreement and statements concerning that performance further establish that "all assets" in the Settlement Agreement is not limited to directly-held equity interests in the portfolio companies. "The parties' course of performance under a contract is a powerful indication of what the correct interpretation of that contract is." *Sunline Com. Carriers, Inc. v. CITGO Petroleum Corp.*, 206 A.3d 836, 851 n.95 (Del. 2019) (quoting *Senior Housing Capital, LLC v. SHP Senior Housing Fund, LLC*, 2013 WL 1955012, at *31 (Del. Ch. May 13, 2013)). Here, the parties' conduct and statements consistently reflected their understanding of the Settlement Agreement that Fund II's assets included the mineral rights and leasehold assets owned by the portfolio companies.

First, Stronghold has caused Fund II to make over 4,300 sales of mineral rights and leasehold assets, including over 700 since the August 2022 signing of the Settlement Agreement. A637-638 ¶ 33. In contrast, Stronghold has not identified any sale or even attempted sale of portfolio company equity interests. And until the letter briefing on the form of order after summary judgment, the parties never even mentioned the possibility that the Settlement Agreement imposed a limitation on sales to equity interests. Given that Stronghold regularly engaged in sales of the underlying mineral rights and leasehold interests, not the portfolio company equity

interests, there is no plausible basis to believe the parties imposed an "equity interest" limitation in the Settlement Agreement without even mentioning such a limitation.

Second, Defendants' repeated statements in this litigation and the related books and records litigation reflect the parties' understanding that "assets" includes the mineral interests and leasehold assets held through portfolio companies. For example, in justifying Stronghold's failure to winddown Fund II, Turner stated that "[f]ollowing the Settlement Agreement, market conditions were not favorable for a rapid sell down ***of assets of the portfolio companies of Fund II***." A639 ¶ 34 (emphasis added); *see also* A639-40 ¶¶ 36, 38. Similarly, in opposing Plaintiffs' motion for summary judgment, Stronghold contended that selling Fund II assets would be a fiduciary breach based on oil prices, the maturity of "oil and gas assets," and the buying and selling of mineral interests "for the benefit of Fund II." A446. These admissions make clear that Stronghold understood the winddown to involve a sale of the oil and gas mineral rights and leasehold assets of Fund II's portfolio companies. Indeed, the Court of Chancery's own discussion of the parties' statements in the summary judgment decision reflected that same understanding that selling the assets of Fund II meant selling the mineral rights and leasehold assets held by the portfolio companies. *See* Ex. A at 78, 87.

Likewise, in the related books and records proceeding, Stronghold argued that "the fact that Fund II continues to buy and sell assets and incur expenses is

unremarkable, and does not support an inference of potential misconduct." *Eller Assocs. Inc., et al. v. SRP Opportunities II, LP, et al.*, C.A. No. 2025-0234-DG, Dkt. 22 at 40. But Stronghold has never pointed to any buying or selling of portfolio company equity; instead, it has bought and sold oil and gas mineral rights and leasehold assets *through* those portfolio companies. Stronghold's acknowledgment that "Fund II continue[d] to buy and sell assets" was a reference to the purchase and sale of those interests. *See also* A752; A758-759; A788 n.17. Thus, the parties always recognized that the sale of assets included the sale of the portfolio companies' mineral rights and leasehold assets.

Third, the Settlement Agreement requires Stronghold to provide Plaintiffs with information on a monthly basis regarding Fund II, including "a description of assets acquired, assets sold, cash balances and performance metrics." A126. In these reports, Stronghold provided investors both with information regarding equity interests and detailed information regarding the mineral rights and leasehold assets held through the portfolio companies—repeatedly referring to them as "assets"—including, for example, the pace at which wells are being drilled, the stage of development of the underlying land, the type of mineral interest held, records of the individual tracts bought and sold, and the profit margin realized on sales of specific tracts. *See* A584; A591-593, A620-621. Similarly, when Stronghold disclosed "Fund II Acquisition/Disposition Activity" to Plaintiffs, it disclosed the acquisition

and disposition of the portfolio companies' mineral rights and leasehold assets, not the equity interests in the portfolio companies. A591-596.

Stronghold's response only confirms the relevance of its conduct to the issue here. According to Stronghold, Settlement Agreement Section 5 required it to provide information regarding Fund II "and any of those entities' Affiliates in which any Affiliates of [Elliott] has an indirect investment." A738. But as discussed *supra* at 22-23, Section 7(a) of the Settlement Agreement has the same "Affiliates" language. Thus, if the reference to "Affiliates" in Section 5 encompassed the portfolio companies' assets (as Stronghold concedes), "Affiliate" in the winddown provision of Section 7(a) must do the same.

The Court of Chancery dismissed all this based on its theory that "the Court did not rule that the portfolio companies' oil and gas interests are not 'assets,' only that they are not 'the assets of SRP II [and] [Sidecar].'" Ex. D at 4 (brackets in original). However, Stronghold's own statements cited above did not concern "assets" in the abstract; they concerned the sale of assets in the winddown pursuant to the Settlement Agreement. Thus, Stronghold's statements concerning assets, meaning the mineral rights and leasehold assets indirectly held by Fund II, address the parties' understanding of the exact language at issue in Section 7(a).

4. The Commercial Context of the Settlement Agreement Confirms That the Special Magistrate's Authority Should Not Be Limited to Equity Interests

The commercial context of the Settlement Agreement strongly supports Plaintiffs' construction because Defendants' interpretation would undermine the express goal of maximizing the value of the sale. The portfolio companies are each created and structured by Stronghold to hold mineral rights and leasehold assets on behalf of Fund II. A631 ¶ 15. Each portfolio company holds a diverse mix of mineral rights and leasehold assets of different types, in different areas, and at different stages of development. *See* A603, A608-621.

The consequence of this structure is that prospective purchasers of an equity interest in Fund II would be forced to take on the motley group of underlying mineral rights and leasehold assets that happen to be held by a particular portfolio entity. But there is no reason to think that a prospective purchaser would be interested in acquiring the entire set of underlying mineral rights and leasehold assets that happen to be held by a particular portfolio entity. This obvious point was explained by Rusty Shepherd, an expert with decades of experience in the oil and gas industry. A724 ¶¶ 2-3; A728 ¶¶ 15. Thus, requiring the Special Magistrate to sell only equity interests in specific portfolio entities likely will discourage bidders and ultimately decrease the value that can be obtained in a sale. A726-728 ¶¶ 9-15.

Defendants did not dispute that limiting the sale to equity interests would reduce the pool of potential buyers and ultimately reduce the value that can be obtained in a sale here. Instead, Defendants posit that the process is not "unreasonable," even if it is not "the most common or simple way to structure a sale." A740-741 ¶ 25. However, if the parties had wanted Stronghold to conduct an uncommon form of sale that would inhibit the goal of maximizing value, the Settlement Agreement would have said so expressly. But the Settlement Agreement does not limit the winddown in this uncommon way because it would undermine the sale process. *See Manti Hldgs., LLC v. Authentix Acquisition Co., Inc.*, 261 A.3d 1199, 1211 (Del. 2021) ("Delaware courts read contracts as a whole, and interpretations that are commercially unreasonable or that produce absurd results must be rejected."). Indeed, the clear reason why Stronghold wants to restrict the Special Magistrate's sale process to the equity interests is because Stronghold itself can participate in the bidding, *see* Ex. C ¶ 12, and is hoping to limit the pool of potential buyers so that Stronghold can acquire Fund II's mineral rights and leasehold assets at a discount.

In the Letter Opinion accepting Defendants' interpretation of "assets," the Court of Chancery did not address the commercial context of its decision. *See* Ex. B at 7-8. On reconsideration, the court again did not address the issue, instead stating only that it would not consider the Shepherd affidavit on a motion for

reconsideration. *See* Ex. D at 4. However, there is no bar on the consideration of expert affidavits on reconsideration. *See, e.g.*, *In re Appraisal of AOL Inc.*, 2018 WL 3913775, at *2-3 (Del. Ch. Aug. 15, 2018) (considering expert affidavits under the "flexible" standard applicable to Rule 59(f) motions). And this Court has considered evidence submitted on reconsideration despite the Court of Chancery's refusal to do so. *See Hoechst Celanese Corp. v. Certain Underwriters at Lloyd's, London*, 656 A.2d 1094, 1100 (Del. 1995) ("HCC presented the Superior Court, on reconsideration, with contrary evidence . . . . The Superior Court's Reconsideration Ruling did not address HCC's evidence," which presented "a material factual dispute between the parties"). There is especially strong reason to consider the evidence here, given that Plaintiffs previously had argued that Defendants' interpretation would "chill third-party bidding," A701, and the court failed to address that argument.

In any event, there is no special knowledge needed to understand the simple fact that restraining the selling authority of the Special Magistrate will reduce the value that the Special Magistrate can achieve. Nor is it surprising or controversial that many potential buyers would be more interested in buying the underlying mineral rights and leasehold assets in the combination they choose than in purchasing the equity interests in a portfolio company holding a haphazard assortment of such assets. Indeed, that is precisely why the parties never included

in the Fund II LPAs or the Settlement Agreement a limitation to sale of only equity interests.

CONCLUSION

The Court should reverse the implementing order to the extent that it limited the "assets" to be sold to only the equity interests of Fund II, and remand with instructions to permit the Special Magistrate to sell any of Fund II's assets, including the underlying oil and gas mineral rights and leasehold assets held by Fund II's portfolio companies.

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Dated: April 24, 2026

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