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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' REPLY BRIEF ON APPEAL AND CROSS-APPELLEES' ANSWERING BRIEF ON CROSS-APPEAL

OF COUNSEL:

Andrew J. Rossman
David M. Cooper
David S. Mader
Charles H. Sangree
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
295 Fifth Avenue
New York, New York 10016
(212) 849-7000
andrewrossman@quinnemanuel.com
davidmader@quinnemanuel.com
davidcooper@quinnemanuel.com
charlessangree@quinnemanuel.com

Raymond J. DiCamillo (#3188)
Susan Hannigan Cohen (#5342)
Daniel M. Boucot (#7552)
RICHARDS, LAYTON & FINGER, P.A.
920 North King Street
Wilmington, Delaware 19801
(302) 651-7700
dicamillo@rlf.com
scohen@rlf.com
boucot@rlf.com

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Attorneys for Plaintiffs Below/Appellants/ Cross-Appellees

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SUMMARY OF ARGUMENT

On Appeal:

1. As set forth below, Stronghold's Answering Brief asks this Court to adopt an interpretation of the Settlement Agreement which ignores that agreement's language, conflicts with other uncontested rulings of the Court of Chancery, conflicts with Stronghold's own performance, and results in a commercially unreasonable reading of the agreement. This Court should reject Stronghold's interpretation, hold that the contractually mandated winddown of "all assets" of Fund II includes the oil and gas mineral rights and leasehold assets held through Fund II's fully controlled portfolio companies, and reverse on this ground.

2. Stronghold's interpretation of the Settlement Agreement as limited to Fund II's directly held portfolio company equity interests conflicts with that agreement's plain language, which expressly requires a winddown of "all assets" and requires Stronghold to act through its "Affiliates." Stronghold concedes that assets could include more than equity interests but ignores the implications of this concession. The parties undisputedly knew that Fund II directly held only equity interests in portfolio companies, so there was no reason to use the broader term "all assets"—rather than the term "equity interests" that was used many times throughout the Settlement Agreement—unless the parties intended the winddown to include the oil and gas mineral rights and leasehold assets held by portfolio companies.

Similarly, Stronghold's interpretation wrongly disregards the Settlement Agreement's requirement that it cause its "Affiliates" to sell assets. According to Stronghold, this inclusion was necessary to cover general partners who would conduct the sales. This is factually wrong, but regardless, it does not explain why the parties chose to use the broad word "Affiliates" (which covers the portfolio companies) rather than the narrower "general partners." In short, the parties specifically chose the broader phrase "all assets" rather than "equity interests," and the broader phrase "Affiliates" rather than "general partners." The Court should, under Delaware law, give effect to these choices instead of rendering them meaningless.

3. There is also an inherent contradiction, which Stronghold fails to address, between the Court of Chancery's summary judgment ruling and its ruling on the form of order. On summary judgment, the Court of Chancery held that Stronghold breached Section 7(a) of the Settlement Agreement by not distributing the proceeds of asset sales. Ex. A at 87. Stronghold does not challenge this holding in its cross-appeal. And this holding is dispositive in Plaintiffs' appeal. The undistributed proceeds at issue were undisputedly from the sale of oil and gas mineral rights and leasehold assets held by Fund II's portfolio companies, not equity interests in those portfolio companies. Thus, the "assets" at issue in Section 7(a) must also cover oil and gas mineral rights and leasehold assets. There is no way to

reconcile this holding with the Court of Chancery's later, erroneous limitation of "assets" to Fund II's equity interests in those portfolio companies.

4. Stronghold's interpretation also conflicts with the Fund II LPAs, which state that mineral rights and leasehold assets held "on a look-through basis" by the portfolio companies are treated as investments of Fund II, and that in a winddown Stronghold decides the "manner" of disposing of Fund II "assets." Stronghold argues that this language does not apply to the Settlement Agreement but ignores that the LPAs "remain in full force and effect." A110 § 13. Regardless, the look-through provision is (at a minimum) strong evidence of the parties' understanding that the mineral rights and leasehold assets held by the portfolio companies were assets of Fund II.

5. Stronghold further fails to reconcile its position with its own repeated statements and conduct confirming that the assets to be sold under the Settlement Agreement included the mineral rights and leasehold assets held by the portfolio companies. Stronghold ignores the key statements entirely, which unequivocally show that Defendants' supposed performance of the Settlement Agreement was based on its supposed appraisal of the market conditions for a sale of the oil and gas mineral rights and leasehold assets, *not* on a market for selling portfolio company equity interests. Indeed, Stronghold does not dispute that, while it engaged in thousands of sales of those assets, it did not engage in a single sale of portfolio

company equity interests. Thus, all parties believed that the "all assets" language covered the portfolio companies' oil and gas mineral rights and leasehold assets and performed based on that understanding. There is no plausible basis to defy the parties' mutual understanding, which Stronghold retracted only when challenging the form of order, in hopes that it can buy the equity interests at a discount—again, a point Stronghold does not dispute in its Answering Brief.

6. The commercial context further refutes Stronghold's interpretation. While Stronghold claims this argument is new, Plaintiffs raised it below, prior to the motion for reconsideration. Stronghold also claims that some parties may prefer to buy equity interests, but that is a red herring. Plaintiffs do not dispute that the "assets" to be sold in a winddown could be the portfolio company equity interests if that path were determined by the Special Magistrate charged with the sales to be value maximizing. But the reality is that there never has been a sale of equity interests in Fund II's portfolio companies. The parties did not restrict sales in the winddown to this form of sale, unprecedented to Fund II, and thereby subvert the goal of maximizing value for the limited partners.

7. In short, Stronghold's position requires accepting that: the parties chose the winddown to involve "all assets" rather than Fund II's portfolio company "equity interests" for no reason; the parties required all Stronghold "Affiliates" to conduct the winddown rather than only Fund II's "general partners" for no reason; there is

an unresolved conflict with the Court of Chancery's uncontested ruling that Stronghold had to distribute proceeds of sales of assets held by portfolio companies; Stronghold's own supposed performance based on an understanding diametrically opposed to the interpretation it advocates now should be ignored; and the reality that Stronghold changed its position to undermine the required sale. The Court should reject Stronghold's extreme argument.

On Cross-Appeal:

1. Denied. The Court of Chancery correctly rejected Stronghold's construction of the Settlement Agreement's winddown requirement as contrary to the plain text and the parties' intent. Stronghold argues the Settlement Agreement permitted it indefinitely to delay a winddown and continue operating Fund II in the ordinary course, including by buying additional oil and gas mineral rights and leasehold assets. However, the Settlement Agreement expressly states the requirements for extending the winddown deadline, and Stronghold failed to meet those requirements. Stronghold relies almost entirely on one sentence, which explicitly concerns only the "manner" of sales, not the refusal to sell entirely. Indeed, if Stronghold could extend the deadline solely based on its own opinion about the optimal time to sell, it would render meaningless the winddown requirement and the specific provisions regarding the timing of the winddown.

2. Denied. Stronghold is wrong that genuine disputes of material fact precluded the Court of Chancery from granting summary judgment. Stronghold does not even challenge one basis for breach that the Court of Chancery found, which is that Stronghold failed to distribute the proceeds of sales it did conduct as required under Section 7(a)(iii). And while Stronghold does challenge the other basis for breach, based on Stronghold's failure to sell all assets as required and instead continued operation of Fund II in the ordinary course, Stronghold's arguments are meritless. Stronghold's own factual admissions establish that Stronghold (a) had not wound down Fund II by December 31, 2023; (b) did not obtain and provide to Elliott the requisite AmLaw 100 opinion of counsel to extend the winddown to December 31, 2024; (c) had not wound down Fund II by that latest allowable date; and (d) instead, continued operating Fund II in the ordinary course, including by continuing to use proceeds from sales of assets to acquire additional assets. These undisputed facts established Defendants' breaches as a matter of law and warranted summary judgment.

ARGUMENT ON APPEAL

I. STRONGHOLD FAILS TO JUSTIFY CONSTRUING THE SETTLEMENT AGREEMENT TO ALLOW FOR THE SALE ONLY OF FUND II'S EQUITY INTERESTS IN PORTFOLIO COMPANIES

A. Stronghold Fails To Confront The Text And Structure Of The Settlement Agreement

There is nothing in the text or structure of the Settlement Agreement to support Stronghold's argument that the only assets that must be sold under the Settlement Agreement are Fund II's equity interests in its portfolio companies. The parties knew how to refer to "equity interests" and they knew how to refer to "all assets"; they chose the latter, and that choice should be respected.

First, Stronghold, like the Court of Chancery, does not dispute that the term "all assets" is not necessarily limited to equity interests. According to Stronghold, "'assets' in the abstract can include mineral or oil/gas interests; SRP II and Sidecar simply do not own such interests." AB 27. But the Settlement Agreement does not use the term "all assets" in the abstract. It uses the term in Section 7 of the Settlement Agreement to describe what Stronghold must sell in the winddown. And it is not mere happenstance that Fund II directly holds only equity interests in portfolio companies. While Stronghold suggests that "[a]s it currently stands, the funds hold only equity interests in the portfolio companies," AB 26, that is misleading. As Plaintiffs explained and Stronghold does not dispute, Fund II has only ever directly held portfolio company equity interests, and the parties well understood that fact

when entering into the Settlement Agreement. OB 22. The question then arises: If the parties undisputedly knew Fund II only directly held equity interests, why did they refer to "all assets" in the Settlement Agreement, if not to cover more than Fund II's directly held "equity interests"? Stronghold fails even to attempt an answer.

That lack of response is especially telling because the Agreement repeatedly refers to "equity interests" when it is addressing those interests and "assets" when it refers to the broader category that includes oil and gas mineral rights and leasehold assets. OB 19-20 (citing A114 § 24(g)(xiii); A103 § 6(a); A105 § 7(b), A112 § 23; A113 § 24(g)(i); A201; A240 § 9.04(d)). Stronghold's response is that these provisions simply reflect that "assets" can, theoretically, include more than equity interests. AB 25-26. But this again ignores the reality. Stronghold's interpretation limits "all assets" only to equity interests. Stronghold also suggests that the other provisions' use of "assets" and "equity interests" "confirms that 'assets' can include 'equity interests.'" AB 26. This simply confirms Plaintiffs' construction. Plaintiffs have never disputed that the assets to be sold *include* equity interests, which are certainly one type of asset. Rather, the point is that they are not the *only* kind of asset. Similarly, while Stronghold argues that the Settlement Agreement used the terms including "Lease," "Fee Interest," and "Mineral Interest" when referring to types of assets, AB 20, Section 7(a) did not use those terms for the simple reason

that it was not *limiting* the assets to those interests. Rather, it was including all types of assets, which is why it used the term "all assets."

Stronghold rests its textual argument principally on the word "of," AB 18-19, which does not support its attempt to rewrite the Settlement Agreement. According to Stronghold, because Section 7(a) refers to "assets of SRP II [and] SRP II Sidecar," it covers only "the assets those entities directly own." AB 19. For this proposition, Stronghold cites Supreme Court precedent for the proposition that "the use of the word 'of' denotes ownership." AB 18 (quoting *Bd. of Trs. of Leland Stanford Junior Univ. v. Roche Molecular Sys., Inc.*, 563 U.S. 776, 787-88 (2011)). However, the question here is not ownership, but rather Stronghold's attempt to add the word "direct" to ownership, in order to eliminate from the winddown portfolio company assets that Fund II indisputably controls. There is nothing in the word "of" (or the Supreme Court's construction of that word in *Roche*) that imports the word "direct," as Stronghold suggests.

Stronghold cites no precedent or logic for its attempt to turn "of" into a direct ownership limitation. Instead, Stronghold argues that the Settlement Agreement could have used the word "indirect," just as it could have used the word "direct." AB 21, 30. But there is no place to put the word "indirect" because Section 7(a) does not use the word "held" at all. Section 7(a) broadly covers "all assets,"

including those that would be sold by "Affiliates," with no limitation on which entity holds the assets, directly or indirectly.

Second, Stronghold ignores the rest of Section 7(a), which left no doubt that the assets to be sold in a winddown included those held by Stronghold-controlled portfolio companies by stating expressly 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). Stronghold says that "[w]hen the parties wanted a provision to reach *affiliates*, they said so expressly," AB 21, and that is exactly what they did in Section 7(a), the key provision at issue. As Plaintiffs explained and Stronghold does not dispute, Stronghold controls the Fund II portfolio companies, which are Affiliates under the Settlement Agreement. OB 22-23. Thus, Stronghold must "cause" the portfolio companies to "[p]romptly begin to seek to sell all remaining assets."

Stronghold errs in suggesting that this language concerns only which entity will sell the assets, not which entity's assets will be sold. AB 30. Stronghold fails to explain why the parties included the word "Affiliate" if only Fund II's equity interests were to be sold. Stronghold attempts to do so by claiming that the Fund II entities have their own general partners who are not parties to the Settlement Agreement. AB 29. But if the parties intended the obligation in Section 7(a) for Stronghold to cause its "applicable Affiliate" to effectuate the winddown to apply

only to Fund II's General Partners, it would have said so and not used the far broader term "Affiliate." *See* A113 § 24(g)(ii) (defining "Affiliates" to include "with respect to any Person, any other Person that directly or indirectly Controls, is Controlled by or is under common Control with such Person . . . .").[1] Portfolio companies are "Affiliates" under the plain language of Section 7(a) and thus are bound by the winddown. Regardless, Stronghold's explanation is nonsensical because Ryan Turner *is* a party to the Settlement Agreement, A99, and he has authority to sell Fund II's equity interests through his control of the general partners. A29-A32.

Moreover, there is no "of Fund II" language within the "Affiliate" clause; it says simply that "the SRP Parties will (or will cause their applicable Affiliate to): i. Promptly begin to seek to sell all remaining assets," before adding other requirements for the timing of sale of "all assets" and distribution of proceeds of the sale of "any assets." A105 § 7(a). Stronghold provides no explanation for why the Court should insert "directly held by Fund II" within these clauses, when they do not even say "of Fund II." While that language exists at the start of Section 7, which describes the winddown generally, it should be read in conformance with the specific

[1] Included in the definition of "Person" is a "corporation, limited partnership, general partnership, limited liability company, joint stock company, joint venture, association, company, estate, trust, bank trust company, land trust, business trust or other organization, whether or not a legal entity . . . .". A114.

language in Section 7(a) delineating precisely how the winddown was to occur. That specific language allows sales of each portfolio company's assets.

Third, Stronghold's interpretation conflicts with the Court of Chancery's own holding that Section 7(a) requires the distribution of proceeds of the sale of oil and gas mineral rights and leasehold assets, not just Fund II's equity interests. Specifically, and as noted *infra* at II.C, the Court of Chancery held on summary judgment that Stronghold breached Section 7(a)(iii) by "us[ing] proceeds to acquire additional assets instead of distributing them . . . ." Ex. A at 87. Those were undisputedly the proceeds of the sale of oil and gas mineral rights and leasehold assets, as the Court of Chancery itself recognized. *Id.*; OB 24. Stronghold's only response is that these were sales of the portfolio companies, not sales of Fund II. AB 31. But that is exactly the point: the Court of Chancery held that Stronghold breached by not distributing proceeds of sales of the oil and gas mineral rights and leasehold assets directly held by the portfolio companies. There is no way to reconcile that decision with the idea that Section 7(a) concerns only sales of Fund II's directly held equity interests. Section 7(a)(i), discussing the sales, and Section 7(a)(iii), discussing distribution of the proceeds, are describing the exact same sales using the exact same "assets" language.

Indeed, it would be absurd if during the winddown, Fund II could continue to re-invest the proceeds of sales of the oil and gas mineral rights and leasehold assets

rather than distributing the proceeds of those sales to Fund II's limited partners. That is why the Court of Chancery found this to be a breach—such ordinary course operations are antithetical to the concept of a winddown. *See infra* at II.C.2. And that is why the required asset sales at issue include sales of oil and gas mineral rights and leasehold assets. Stronghold does not even attempt to challenge this finding of breach or attempt to reconcile it with the limitation of sales to Fund II's equity interests. In fact, Stronghold's cross-appeal, addressed *infra*, tacitly admits that the winddown required sales of the portfolio companies' oil and gas mineral rights and leasehold assets, not Fund II's portfolio company equity interests, because it defends its conduct by reference to supposed attempts to sell portfolio company assets and does not address the fact that it never sold any equity interests. AB 54-55.

Instead, Stronghold focuses on the dictionary definition of "winding down," AB 20, but the Settlement Agreement itself specifies what the winddown required here, which is a sale of "all assets," not just equity interests. In any event, as a matter of law, a dissolution certainly can require disposition of assets held by controlled subsidiaries. *See Enhabit, Inc. v. Nautic Partners IX, L.P.*, 2025 WL 1397533, at *4 (Del. Ch. May 14, 2025) (holding that the dissolution of the trust would occur "with respect to all Defendants on the date (the 'Termination Date') on which: (i) ***Topco has disposed of all its material assets (including all revenue-generating or***

valuable assets held directly or indirectly through subsidiaries) in accordance herewith ….” (emphasis added)).

Finally, Stronghold’s resort to background principles of corporate law, *see* AB 22-25, is meritless. The question here concerns the obligations of the Settlement Agreement. Stronghold cites nothing for the proposition that Delaware law prohibited the parties to the Settlement Agreement from requiring the sale of the oil and gas mineral rights and leasehold assets held through portfolio companies. While Stronghold notes that the portfolio companies are not parties to the litigation, AB 24-25, that is irrelevant as a matter of law, given that all are undisputedly controlled by Defendants, and Defendants had every right to agree to dispose of their assets in the Settlement Agreement. *See Dep’t of Finance v. AT&T Inc.*, 239 A.3d 541, 554 (Del. Ch. 2020) (“This court can order AT&T to cause the Affiliates to comply with the Subpoena. AT&T controls the Affiliates, and it can cause them to comply with an order of this court.”); *Deutsch v. ZST Digit. Networks, Inc*., 2018 WL 3005822, at *10 (Del. Ch. June 14, 2018) (quoting *Regal Knitwear Co. v. NLRB*, 324 U.S. 9, 14 (1945)) (“An order generally binds not only the named parties, but also those identified with them in interest, in privity with them, represented by them or subject to their control.”) (quotation marks omitted). In short, the question is not whether Delaware law generally would treat the oil and gas mineral rights and leasehold

assets as property of Fund II, but whether Stronghold agreed to sell them, which it did.

B. Stronghold Cannot Reconcile The Court of Chancery's "Directly Held" Limitation on "All Assets" with the Fund II LPAs

Section 2.3(c) of the Fund II LPAs confirms that mineral rights and leasehold assets acquired and held "on a look-through basis" by the portfolio companies are treated as investments of Fund II itself. OB 25-26 (citing A517 § 2.3(c)). Stronghold argues that this provision concerns only the obligations of the LPAs themselves. AB 33. However, as Plaintiffs explained (OB 26) and Stronghold ignores, the Settlement Agreement states that the LPAs "remain in full force and effect" unless otherwise modified, A110 § 13, and there was no modification of the LPAs' look-through provision. Moreover, contrary to Stronghold's suggestion that the winddown obligation "arises under the *subsequent* Settlement Agreement," AB 33, the LPAs contain winddown obligations that are simply being enforced (on a more expedited basis) through the Settlement Agreement.[2]

[2] Stronghold also focuses on the idea that the "look-through basis" applies on the "Investment level" and that the parties intended equity investments, AB 33, but this misses the point. The look-through provision explicitly concerns "any or a group of Investments through Special Purpose Entities, Subsidiary AIVs or other Subsidiaries." A517 § 2.3(c). Those investments, which plainly include the mineral rights and leasehold assets held by the portfolio companies, are to be considered on a look-through basis.

Regardless, Stronghold ignores the simple point that the question is the parties' understanding of the "all assets" language in the Settlement Agreement, and the Fund II LPAs provide strong evidence of that understanding. *See* OB 26-27. The parties expressly stated in the LPAs that the mineral rights and leasehold assets held by the portfolio companies were assets of Fund II. There is nothing to suggest that the parties' understanding changed in the Settlement Agreement.

Moreover, the LPA procedures for winding up the fund include broad discretion for the General Partners to determine the "manner" of disposition of Fund II assets. OB 27-28. Stronghold does not dispute on appeal (and previously accepted, A454-455) that this broad authority included the authority to sell the underlying mineral rights and leasehold assets. This concession is critical because the LPAs use the language "Partnership assets," A569 § 8.2(a), which is materially identical to the language "assets of [Fund II]" in the Settlement Agreement, A105 § 7. There is no reason to treat the former as including the underlying mineral rights and leasehold assets, and the latter not to do so. Stronghold notes that this is not technically a winddown under Section 8.2(a), AB 34, but once again, the parties expressed no intention to constrain the Special Magistrate's authority beyond what would constrain the General Partners in a winddown, rather than providing the discretion necessary to fulfill the purpose of maximizing value for the limited partners. *See* OB 28-29. Indeed, the Chancery Court expressly recognized the

Special Magistrate's authority to act "through and in the name of the General Partners," making that aspect of the Order consistent with the broad authority under the LPAs. Ex. C ¶ 11.

C. Stronghold Fails to Confront Defendants' Conduct and Statements Confirming That Fund II's Assets Are Not Limited to Directly-Held Equity Interests

Stronghold's attempt to disregard the evidence of course of performance, including Defendants' statements directly on point, is meritless. According to Stronghold, because Plaintiffs argued that Section 7(a) is not ambiguous, it cannot rely on evidence of course of performance to construe the term "all assets" of Fund II. AB 34-35. This is wrong. As this Court has recognized, "[t]he basic business relationship between parties must be understood to give sensible life to any contract." *Chicago Bridge & Iron Co. N.V. v. Westinghouse Elec. Co. LLC*, 166 A.3d 912, 927 (Del. 2017). Stronghold's course of conduct is thus relevant to showing how the parties understood the unambiguous winddown requirements in Section 7(a). *See id.* at 932 (rejecting construction that "eviscerates the basic bargain between these two sophisticated parties."). Stronghold's course of dealing (and statements in this litigation) conclusively show it understood "all assets" broadly to include the oil and gas mineral rights and leasehold assets held by the portfolio companies.[3]

[3] In any event, this Court has held that it should consider extrinsic evidence if there is ambiguity, regardless of whether ambiguity was argued below. *See Sunline*

First, Stronghold ignores the undisputed fact that it has caused Fund II to make *thousands* of sales of mineral rights and leasehold assets and *never* has sold portfolio company equity interests. OB 31. Thus, Stronghold's theory is that the Settlement Agreement required, *sub silentio*, a sale that had never occurred, rather than the kind of sale that routinely occurred both before and after the signing of the Settlement Agreement. That theory should be rejected as commercially unreasonable. *See Manti Hldgs., LLC v. Authentix Acq. 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.").

Second, Stronghold likewise ignores many of Defendants' statements confirming that the assets of Fund II described in the Settlement Agreement included the oil and gas mineral rights and leasehold assets held through portfolio companies. *See* OB 32-33. In particular, Stronghold fails to address the statements in this very

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Commercial Carriers, Inc. v. CITGO Petroleum Corp., 206 A.3d 836, 847 n.68 (Del. 2019) ("CITGO asserts that whether the contract is ambiguous is not properly before this Court because Sunline did not argue that the contract was ambiguous below. But whether a contract is unambiguous is a question of law; this Court cannot find an ambiguous contract unambiguous because each party interprets the contract differently to find it unambiguous.") (citation omitted); *see also Appriva S'holder Litig. Co. v. ev3, Inc.*, 937 A.2d 1275, 1291-92 (Del. 2007) (holding trial court erred in refusing to consider extrinsic evidence when its interpretation was "not the only reasonable interpretation").

litigation that Defendants did not sell the assets as required because of market conditions for selling "***assets of the portfolio companies of Fund II***." A639 ¶ 34 (emphasis added), including "***oil and gas assets***," A446 (emphasis added); *see also* A639-40 ¶¶ 36, 38; Ex. A at 78, 87 (Court of Chancery recognizing this understanding of the parties' statements).[4] Thus, there is no doubt that Defendants understood the Settlement Agreement as not limited to sale of equity interests (which, again, they never even tried to sell).

And, critically, this is not simply a matter of Defendants' statements, but what they prove about Defendants' supposed performance. Defendants supposedly performed the Settlement Agreement by looking at whether market conditions were optimal for a sale of the oil and gas mineral rights and leasehold assets. A636-A640. Defendants did not perform by considering or attempting a sale of equity interests. Thus, upon signing the Settlement Agreement, and for *years* thereafter, Defendants unquestionably believed and supposedly performed based on the understanding diametrically opposed to the one the Court of Chancery adopted and Stronghold puts

[4] While ignoring these clear statements, Stronghold mentions one in which Defendants mischaracterized Plaintiffs' request as "demanding the immediate sale of securities in Fund II portfolio companies," A474, without remotely suggesting that the equity interests were the only assets to be sold. Indeed, Defendants' statements to the contrary came in the very same document. A446. In addition, contrary to Stronghold's suggestion, AB 35, Plaintiffs' filings repeatedly made clear that the assets at issue included the oil and gas mineral rights and leasehold assets. *See, e.g.*, A402-A403; A653; A656; A665.

forward now. Thus, the course of performance here necessarily provides extraordinarily strong evidence that the Settlement Agreement covers sale of the oil and gas mineral rights and leasehold assets.

Third, Stronghold's performance of its obligation in the Settlement Agreement to disclose to Elliott a monthly "description of assets acquired, assets sold, cash balances and performance metrics," A126, by providing detailed information regarding the portfolio companies' mineral rights and leasehold assets, further confirms the parties' understanding that these constituted the assets that must be sold. OB 33-34. Stronghold argues that this "confuses information rights with sale obligations," AB 37 n.7, but the information rights provision (Section 5) has the same "Affiliates" language as does the sale provision (Section 7(a)). OB 34. Thus, while Stronghold says that an investor update cannot be "a contractual concession," AB 37, it is once again strong evidence that Defendants understood the relevant contractual language and performed the Settlement Agreement in a manner inconsistent with what they are advocating now.

D. Stronghold Wrongly Disregards The Commercial Context That Limiting The Sale To Equity Interests Will Undermine The Goal Of Maximizing Value For Limited Partners

Stronghold's principal response to the fact that its construction of "all assets" will constrain the authority of the Special Magistrate to pursue a value maximizing winddown is to argue erroneously that this argument was not raised below prior to

reargument. AB 37-38. In fact, in briefing on the form of order, Plaintiffs made the straight-forward argument that tying the Special Magistrate's hands by permitting a sale only of equity interests would undermine the sale. *See* A690-91 (sale only of equity interests "would unnecessarily frustrate the purposes of the Settlement Agreement and the Court's ruling by requiring prospective bidders to acquire underlying assets through the purchase of intermediary portfolio investment companies operated by Stronghold"); A701 ("Stronghold's preference that the Special Magistrate sell equity interests in Stronghold-managed vehicles is a blatant attempt to chill third-party bidding."). While it is true that Plaintiffs submitted an affidavit on reargument, it is appropriate to consider that affidavit, especially given the Court of Chancery's failure to address Plaintiffs' argument that the court's interpretation would "chill third-party bidding." OB 37. Regardless, the arguments stand with or without the affidavit.

Stronghold's argument that a sale of equity interests is "perfectly sensible" and actually preferable, AB 39, runs headlong into the reality that Stronghold never has engaged in a sale of the equity interests of Fund II's portfolio companies. If buyers desired equity interests in portfolio companies in Fund II—which hold a motley group of assets of different types, in different areas, and at different stages of development, *see* OB 35—then surely there would be some such sales. There are

none. Stronghold only ever bought and sold the underlying oil and gas mineral rights and leasehold assets, and did so thousands of times.

Moreover, even if some buyers desire equity interests, Plaintiffs' interpretation would allow those buyers to pursue such acquisitions. Portfolio company equity interests are part of "all assets," just as are the underlying mineral rights and leasehold assets. Thus, the *only* effect of the Court of Chancery's holding is to restrict the pool of potential buyers, requiring sales only in a form that Stronghold has never effectuated. Stronghold desires that result now because it wants to acquire Fund II's mineral rights and leasehold assets itself at a discount, *see* OB 36, a point Stronghold scrupulously ignores. But there is no legitimate basis for this desire, which contradicts the plain language, the parties' longstanding understanding of the language, and the Settlement Agreement's goal of maximizing value for the limited partners.

ARGUMENT ON CROSS-APPEAL

II. THE COURT OF CHANCERY PROPERLY CONSTRUED THE SETTLEMENT AGREEMENT TO REQUIRE A WINDDOWN

A. Question Presented

Did the Court of Chancery correctly find that Section 7(a) of the Settlement Agreement unambiguously required Stronghold to winddown Fund II, and did not permit Stronghold to continue operating Fund II in the ordinary course, including by using proceeds from asset sales to acquire additional oil and gas assets for the fund?

B. Scope of Review

This Court reviews the Court of Chancery's construction of a contract and grant of summary judgment *de novo*. *See In re Aearo Techs., LLC*, 346 A.3d 584, 594 (Del. 2025).

C. Merits of Argument

The Court of Chancery found that Stronghold materially breached the Settlement Agreement in two different ways. First, Stronghold breached Section 7(a)(i)-(ii) by not selling all assets of Fund II by the December 31, 2023 or December 31, 2024 deadlines. Ex. A at 82-84. As discussed below, Stronghold fails to show any error in this ruling. Second, Stronghold breached Section 7(a)(iii) by not distributing to Fund II's limited partners the proceeds of the asset sales Stronghold did conduct during the winddown period. *Id.* at 87. Stronghold does not even mention (let alone contest) the second finding of breach. Thus, Stronghold has

waived any challenge to the finding that it breached Section 7(a)(iii) by using "proceeds to acquire additional assets instead of distributing them, as required under Section 7(a)(iii)." *Id.*

1. The Court Of Chancery Correctly Found The Settlement Agreement Unambiguously Required A Winddown And Did Not Permit Stronghold To Operate Fund II In The Ordinary Course

The Settlement Agreement's preamble states that Stronghold and Elliott "desire to provide for an orderly termination of the relationship between the SRP Parties and the Elliott Parties." A100. That termination was effectuated through Section 7, which begins "the SRP Parties shall sell the assets of" Fund II "and wind down each of the entities as follows." A105 § 7. First, Stronghold was required to "[p]romptly begin to seek to sell all remaining assets" of Fund II. *Id.* § 7(a)(i). Second, Stronghold was required to "[s]ell all assets to third-parties by December 31, 2023" subject to certain extensions through December 31, 2024 that it indisputably did not obtain. *Id.* § 7(a)(ii). Third, Stronghold was required to "promptly distribute proceeds from sales of any assets no later than 30 days following receipt of the applicable proceeds . . . ." *Id.* § 7(a)(iii).

Read as a whole, this provision unambiguously mandates a winddown. The December 31, 2023 deadline to sell all assets of Fund II is then conditioned by two separate provisions that should be read to serve independent purposes. *See Tang Capital Partners, LP v. Norton*, 2012 WL 3072347, at *8 (Del. Ch. July 27, 2012)

("Contracts must be read as a whole" and language "must therefore be interpreted, to the extent possible, in a way that harmonizes with the other terms of the" agreement.); *Martin Marietta Materials, Inc. v. Vulcan Materials Co.*, 68 A.3d 1208, 1225 (Del. 2012) ("[A]ll contract provisions [must] be harmonized and given effect where possible."). First, Stronghold could obtain quarterly extensions to the winddown date, though only until December 31, 2024, and only upon receipt of an independent, AmLaw 100 opinion (that it must provide to Elliott) stating a more rapid sale of all assets *would be* a fiduciary breach. A105 § 7(a)(ii). Second, "notwithstanding the foregoing," Stronghold would not be required to "effect sales of assets in a ***manner***" it reasonably determines (supported by qualified funds counsel) to be a fiduciary breach—and even then, it must still "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) (emphasis added).

Reading these provisions together, the Court of Chancery correctly 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. To begin with, Stronghold did not obtain an AmLaw 100 opinion and delayed asset sales until long after December 31, 2024, so it undisputedly did not satisfy that provision allowing extension of the winddown date. *Id.* at 82-83. As to the "notwithstanding" clause, the court explained: "[B]y its plain terms, [it] addresses

the 'manner' in which sales may be effected and speaks to the duties that are owed when a fiduciary or investment advisor is 'effecting such sales.' 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. To put it simply: "By failing to pursue sales of 'all assets' in *any* manner, defendants breached Section 7." *Id.* at 84.

2. Stronghold's Interpretation Of The Settlement Agreement As Permitting A Refusal To Sell Any Assets Defies The Language, Structure, And Intent Of The Settlement Agreement

While Stronghold is circumspect about its interpretation of the "notwithstanding clause," its Answering Brief ultimately concedes that Stronghold is taking the extreme position that the Settlement Agreement imposes no requirement that it sell *any* of Fund II's assets. AB 50 (The "notwithstanding" clause "can reasonably cover all asset sales, some asset sales, or none, depending on Stronghold's fiduciary assessment."). And while Stronghold does not identify what kind of "fiduciary assessment" could justify a total refusal to sell assets by the deadline, Stronghold argued below that the "notwithstanding" clause permitted Stronghold to continue operating Fund II in the ordinary course if it perceived that doing so would provide the "'optimal risk-adjusted return' for investors." Ex. A at 85 (quoting A637). Stronghold took this position because, as discussed *infra* at III.C,

the undisputed facts showed that Stronghold's failure to sell was based solely on its view that a winddown did not provide an optimal return, without a judgment specific to any asset. The Court of Chancery correctly rejected this interpretation on several grounds.

First, the "notwithstanding" clause governs only the "manner" of sales, not the refusal to conduct sales in the first place. Stronghold argues that "manner" includes "timing," AB 48-49, but it cites nothing in the Settlement Agreement for this implausible understanding of the word "manner." When the Settlement Agreement wanted to discuss timing, it did so expressly—setting a deadline for the winddown and the requirements for extending it. There is no such language in the "notwithstanding" clause.

Rather, the "notwithstanding" clause concerns the "manner" in which Stronghold is required to effect sales. A105 § 7(a). Stronghold's determination that it would not sell assets at all is not a "manner" of "effect[ing] sales"; it is a *refusal* to effect sales. *Id.* If the parties wished to provide Stronghold with such an unfettered right to delay the winddown, they would have drafted a materially different provision. *See* Ex. A at 46 (The Court: "Now, if the parties were attempting to negotiate a structure as you are arguing, why wouldn't they have simply said 'Notwithstanding the foregoing, the SRP Parties shall not be required to effect sales of assets if they reasonably determine?'").

Stronghold also errs in its understanding of the sentence after the "notwithstanding" provision. Stronghold focuses on the word "delay," AB 44-45, but this sentence does not contain a "notwithstanding" proviso, and thus it cannot disregard the specific provisions describing exactly what delay is permissible and in what circumstances. As discussed above, the requirements for such a delay are not satisfied here.[5] Where the parties intended for a "notwithstanding" clause to modify multiple, different provisions they broke such a sentence into labeled subparts, not multiple sentences. *See* A104-A105 § 6(d). That they did not do so here shows they did not intend the "notwithstanding" language to apply beyond the sentence in which it appears. Accordingly, the "event of delay" language cannot be read to override the winddown requirements, and Stronghold's approach must be rejected for doing so. *See In re Estate of Crist*, 863 A.2d 255, 258 (Del. Ch. 2004) (a "notwithstanding" clause may only trump "conflicting provisions").

In any event, this sentence also concerns the "manner" of sales and does not excuse a choice not to sell at all before the deadline. In particular, Stronghold must

[5] The provisions of the Settlement Agreement relating to Stronghold's return of misappropriated funds do not change the analysis. Stronghold claims that because it was required to return the money it misappropriated "within two business days," with the parties agreeing "[t]ime is of the essence with regards to" Stronghold's restitution, there must be no similar deadline for the winddown. AB 45-46. Of course, Section 7(a) does create a "hard deadline" to complete the winddown. That the parties negotiated for possible extensions to which Stronghold did not avail itself does not change that analysis.

"use reasonable best efforts to effect the sales prior to the end of the required time periods in a manner compliant" with its fiduciary duties. *See* A105 § 7(a). Thus, as the Court of Chancery explained, this sentence "addresses only the 'manner' in which assets must be sold, not whether the assets must be sold. It contemplates the possibility that the general partner's duties may require that certain assets be sold in a particular manner that could result in some delay." Ex. A at 84-85. It does not excuse Stronghold's actual conduct, whereby it did not even attempt to sell "all assets" and instead operated Fund II in the ordinary course—including by acquiring tens of millions of dollars of assets for Fund II after executing the Settlement Agreement.

Second, Stronghold's interpretation wrongly ignores the provision stating that Stronghold had to receive an AmLaw 100 opinion to delay the sale of all assets even for a quarter, and only until December 31, 2024. A105 § 7(a)(ii). Stronghold never addresses the Court of Chancery's holding that its construction reads Section 7(a)(ii) out of the Settlement Agreement. Specifically, under Stronghold's construction, in order to obtain a single quarterly extension of the winddown deadline, Stronghold would be required to obtain a "written opinion" from an "AmLaw 100 firm not previously retained by any of the SRP Parties" stating that a winddown "would be" a breach of fiduciary duty and then provide that opinion to Elliott. A105 § 7(a)(ii). And this approach—which would need to be executed each quarter—would only

allow delay of the winddown for a maximum of one year. *Id.* By contrast, Stronghold asserts it could obviate the winddown requirement entirely and continue operating Fund II in the ordinary course if it merely obtains an opinion from its own funds counsel (that it need not provide to Elliott) that a winddown "would be reasonably likely to result in a violation of applicable fiduciary or investment advisor duties owed to a fund . . . ." A105 § 7(a)(iii). Thus, if Stronghold could accomplish an indefinite delay of the winddown in its sole discretion (supported only by its own funds counsel), it would never be required to avail itself of Section 7(a)(ii). This reads Section 7(a)(ii) out of the Settlement Agreement and is an absurd result. *See Manti Hldgs.*, 261 A.3d at 1211.

Third, Stronghold's interpretation would defeat the entire purpose of the winddown. As the Court of Chancery explained, "If defendants have the discretion to decide that it is more value-enhancing to continue to operate than to wind down, then the very purpose of the agreement is thwarted." Ex. A at 85. Stronghold suggests that the word "notwithstanding" renders the rest of the Settlement Agreement irrelevant, but that is wrong as a matter of law. *See McMillan v. Nelson*, 2024 WL 3311812, at *11 (Del. Ch. Jul. 5, 2024) ("The word 'notwithstanding' in Section 6.3 does not help Defendants. Reading Sections 6.2 and 6.3 together, the 'notwithstanding' language operates to harmonize the language in Section 6.2."); *Estate of Crist*, 863 A.2d at 258 (a "notwithstanding" clause may only trump

"conflicting provisions"). Section 7(a) imposes a Fund-wide winddown requirement. Section 7(a)'s winddown deadline requires the sale of "all remaining assets" of Fund II by December 31, 2023, with this sale of all assets beginning "promptly" after execution of the Settlement Agreement. A105 § 7(a). These provisions mandate the prompt but "orderly termination" for which the parties bargained. A100. Read in tandem with Sections 7(a)(i) and 7(a)(ii), the Court of Chancery correctly construed the "notwithstanding" provision as allowing Stronghold to delay individual asset sales if it made an asset-specific determination that the manner of the specific sale it was contemplating would be a fiduciary breach. Ex. A at 83-85; *see Osborn v. Kemp*, 991 A.2d 1153, 1159 (Del. 2010) ("We will read a contract as a whole and we will give each provision and term effect, so as not to render any part of the contract mere surplusage."). That is not what Stronghold claims to have done. A636-A637; A639-A640.

Indeed, as the Court of Chancery correctly recognized, Stronghold's proposed construction would lead to the "absurd result[]" whereby "the obligation and deadlines to sell assets in Section 7(a)(i) through (iii) would be rendered entirely illusory." Ex. A at 86; *see Manti Hldgs.*, 261 A.3d at 1211 ("[I]nterpretations that are commercially unreasonable or that produce absurd results must be rejected."); *Osborn*, 991 A.2d at 1159 ("We will not read a contract to render a provision or term meaningless or illusory." (cleaned up)). Stronghold argues its construction does not

nullify Section 7(a)'s winddown requirement because the Settlement Agreement still "imposes substantial obligations [to] '[p]romptly begin to seek to sell' the assets of SRP II and Sidecar and make 'reasonable best efforts to effect the sales prior to the end of the required time periods.'" AB 51 (quoting A105 § 7(a)). But, of course, Stronghold's construction of the Settlement Agreement, as it repeatedly advanced in the Court of Chancery, permits it *indefinitely* to delay the winddown if it determines that operating Fund II in the ordinary course is value maximizing. Ex. A at 85; A467. Stronghold admits it did just that by continuing to acquire tens of millions of dollars of assets for Fund II after it signed the Settlement Agreement. A639-A640. This construction negates the winddown requirement altogether, allowing Stronghold to continue operating Fund II so long as it believes doing so will be profitable. This is precisely the kind of commercially unreasonable result that Delaware courts avoid when construing a contract. *Manti*, 261 A.3d at 1211.

Fourth, the Court of Chancery correctly rejected Stronghold's argument that compliance with common law fiduciary duties required that Stronghold have the ability to avoid the winddown altogether. AB 48-50. As the Court of Chancery correctly held, "if a [fiduciary] did not breach its fiduciary duties when entering into a contract, that contract b[inds] the [company]." Ex. A at 87 (citing *Wagner v. BRP*

Grp., Inc., 316 A.3d 826, 864 (Del. Ch. 2024)).[6] Stronghold goes to great lengths to attempt to distinguish the facts of *Wagner* but cannot refute its applicable statement of law. *See Wagner*, 316 A.3d at 869 ("Delaware cases thus demonstrate overwhelmingly that a court cannot invoke the fiduciary duties of directors to override a counterparty's contract rights."); *Frederick Hsu Living Tr. v. ODN Holding Corp.*, 2017 WL 1437308, at *23 (Del. Ch. Apr. 14, 2017) ("Only if the directors breached their fiduciary duties *when entering into a contract* does it become possible to invalidate it on fiduciary grounds."); *see also Cantor Fitzgerald, L.P. v. Ainslie*, 312 A.3d 674, 677 (Del. 2024) (Delaware courts "hold freedom of contract in high—some might say, reverential—regard.").

Finally, the Court of Chancery also correctly rejected Stronghold's argument that its construction must prevail because Fund II holds certain immature assets that were not amenable to a rapid winddown, and this supposed commercial context means the parties would not have agreed to firm winddown deadlines. AB 46-47; Ex. A at 49-50. However, as the Court of Chancery explained, "[t]he obvious response to defendants' argument is that if defendants did not believe winding down over the period of time contemplated under the settlement agreement would

[6] After the December 19, 2025 summary judgment ruling, *Wagner* was reversed by this Court on grounds not related to the statement of law on which the court below relied. *See BRP Grp., Inc., v. Wagner*, 2026 WL 1256588, at *2 (Del. May 7, 2026) (TABLE).

maximize value, consistent with their fiduciary duties, they should not have contractually bound Fund II to do so." Ex. A at 86. Stronghold cannot escape the unambiguous language of the Settlement Agreement because it regrets the bargain it struck. *See Nemec v. Shrader*, 991 A.2d 1120, 1126 (Del. 2010) ("Parties have a right to enter into good and bad contracts, the law enforces both.").

Additionally, as the Court of Chancery noted, Fund II's default winddown date was October 2025. Ex. A at 75. While Stronghold had the right to extend that default date, a winddown by the end of 2023 or 2024 is consistent with the parties' originally intended investment duration (that was, in any event, superseded by the Settlement Agreement). Regardless, the winddown provided for in Section 7(a) is plainly "orderly." A100. Stronghold had *sixteen months* to winddown Fund II after the Settlement Agreement was signed and could extend the winddown period up to an additional year under 7(a)(ii). Stronghold did not breach this provision because it was simply unable to sell a complicated mix of assets over a period of nearly thirty months. It breached the provision because it did not believe it was obligated to conduct any winddown at all. A467; A636-A637; A639.

III. NO DISPUTES OF MATERIAL FACT PRECLUDED SUMMARY JUDGMENT

A. Question Presented

Did the Court of Chancery correctly find that the undisputed facts, including as admitted in Stronghold's answer and sworn affidavits, show that Stronghold breached Section 7(a) of the Settlement Agreement?

B. Scope of Review

This Court reviews the Court of Chancery's grant of summary judgment *de novo*. *See In re Aearo Techs.*, 346 A.3d at 594.

C. Merits of Argument

Stronghold argues that, even if the Settlement Agreement did unambiguously require a winddown, material disputes of fact existed regarding its compliance with that winddown provision such that the Court should have denied the summary judgment motion. AB 52-55. This is wrong. The undisputed facts, including those presented in Stronghold's own affidavits, prove Stronghold's breach.

Stronghold never identified any individual asset sales it declined for fiduciary reasons. Stronghold admitted it "did not attempt to" sell all of Fund II's assets given its "objectives [] and growth strategies for Fund II." A467. In particular, Stronghold sold some Fund II assets, but it used proceeds from those sales to buy tens of millions of dollars of other assets, made *de minimis* distributions, and did not pursue a total winddown of the fund. A636-A637; A639-A641; A467. In short, Stronghold

undisputedly did not delay individual asset sales based on sale-specific determinations of fiduciary breach, instead ignoring the winddown requirement altogether.

Stronghold argues the allegations in the Complaint cannot be credited on a summary judgment motion because Ryan Turner claims not to know the individual who verified that complaint. AB 53-54. This is irrelevant. Stronghold answered the Complaint by (1) admitting that it did not complete the winddown of Fund II by December 31, 2023 (AR51 ¶ 84); (2) admitting that it did not obtain the AmLaw 100 opinion necessary to extend that deadline, on a quarterly basis, through December 31, 2024 (*id.*); and (3) admitting that it did not complete the winddown by that final deadline. *Id.* Then, when opposing summary judgment, Stronghold did not seek discovery or file a Rule 56(f) affidavit. Instead, it submitted an affidavit from Ryan Turner confirming that Stronghold was not only refusing to winddown Fund II, but that it was continuing to operate the fund in the ordinary course as if there were not a winddown obligation at all. Specifically, Ryan Turner's affidavit states that changes in market conditions after the Settlement Agreement "presented buying opportunities" for Fund II, and that "[s]ince the Settlement Agreement, these portfolio companies have purchased 377 assets for $88 million . . . ." A636-A637; A639-A640. Thus, the facts salient to Stronghold's breach are undisputed, and the Court did not err in finding breach based on those facts and the unambiguous text of

the Settlement Agreement. *See* Ct. Ch. R. 56(c) ("The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."); *Advent Int'l Corp. v. Servicios Funerarios GG S.A. de C.V.*, 2024 WL 3580934, at *4 (Del. Ch. June 7, 2024) (granting summary judgment based on undisputed facts and unambiguous contract).

Stronghold also claims that there are factual disputes regarding whether it was justified in refusing to winddown because the Settlement Agreement permitted it to avoid individual asset sales in a manner that would likely result in a fiduciary breach. AB 53. That is incorrect. Once again, Stronghold admitted it was not attempting to winddown Fund II, A467, and that it was continuing to acquire assets for the Fund in the ordinary course. A636-637; A639-A640; Ex. A at 85. Thus, Stronghold's current claim that the Court of Chancery must have inquired into the circumstances of Stronghold's specific determination not to sell any single asset must be rejected because Stronghold *admitted* it was not making such asset-specific determinations. Instead, Stronghold asserted it was under no obligation to winddown at all and instead was entitled to operate Fund II in the ordinary course. *Id.* There is thus no genuine dispute of material fact as to Stronghold's compliance with Section 7(a), and there is a breach as a matter of law. Ex. A at 85.

CONCLUSION

The Court should affirm the grant of summary judgment for breach of the Settlement Agreement, and reverse the implementing order to the extent that it limited the "assets" to be sold to only the equity interests of Fund II's portfolio companies, 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.

OF COUNSEL:

Andrew J. Rossman
David M. Cooper
David S. Mader
Charles H. Sangree
QUINN EMANUEL URQUHART & SULLIVAN, LLP
295 Fifth Avenue
New York, New York 10016
(212) 849-7000
andrewrossman@quinnemanuel.com
davidcooper@quinnemanuel.com
davidmader@quinnemanuel.com
charlessangree@quinnemanuel.com

/s/ Raymond J. DiCamillo
Raymond J. DiCamillo (#3188)
Susan Hannigan Cohen (#5342)
Daniel M. Boucot (#7552)
RICHARDS, LAYTON & FINGER, P.A.
920 North King Street
Wilmington, Delaware 19801
(302) 651-7700
dicamillo@rlf.com
scohen@rlf.com
boucot@rlf.com

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Attorneys for Plaintiffs Below/Appellants/ Cross-Appellees