IN THE SUPREME COURT OF THE STATE OF DELAWARE

RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP, Defendants Below, Appellants, v. ATP III GP, LTD., in its capacity as general partner of ATP Life Science Ventures, L.P., Plaintiff Below, Appellee.	No. 20, 2026 Court Below: Court of Chancery of the State of Delaware C.A. No. 2025-0607-KSJM **REDACTED PUBLIC VERSION** **Filed: March 17, 2026**

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NATURE OF PROCEEDINGS

At its core, this is a case about a conflicted general partner, Plaintiff Below/Appellee ATP III GP, Ltd. (the "GP"), which improperly and unsuccessfully tried to use this litigation to strip the Defendants Below/Appellants, Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP (together, the "LPs" or the "Rigmora LPs"), of their contractual rights and protections as limited partners. The trial court rightly rejected the GP's ploy, holding that the GP was not entitled to make capital calls in excess of the LPs' $2.425 billion in contingent subscriptions or to override the LPs' rights to approve or disapprove portfolio company budgets. The trial court, however, held that the LPs were required to meet approximately $97 million out of the $101 million in capital calls that the GP issued on May 30, 2025.

The issue on this appeal is whether, under the terms of the parties' First Amended and Restated Limited Partnership Agreement as amended (the "LPA"), the Appellants had any obligations to meet those capital calls. By the plain terms of the LPA, they did not for three reasons: (1) the LPs have already invested the full amount of their $2.425 billion in contingent subscriptions, and the trial court failed to apply the plain terms of the LPA in deciding not to count certain amounts toward that maximum limit; (2) the capital calls were not in accordance with the LPA, because they were made to fund companies that had not met the milestones in their respective budgets, and (3) the capital calls were not made in good faith for a proper purpose, and the trial court failed to understand that the GP's decision to make large capital calls to pressure the LPs to renegotiate the LPA was not a proper purpose under governing Cayman Islands law.

The LPA is the governing document of ATP Life Science Ventures, L.P. (the "Fund"). The Fund is a Cayman Islands Exempted Limited Partnership which was formed by the parties in 2012 to invest in biotech startup companies. The LPs are the Fund's primary limited partners, having contributed around 98% of the Fund's total capital. The GP serves as a fiduciary for the Fund's limited partners.

After a two-day, expedited trial, the Court of Chancery correctly rejected the GP's contention that it had a right to call capital in an undefined amount exceeding the LPs' $2.425 billion subscriptions by $400 million or more. Op. 53-55.[1] The trial court also rejected other claims by the GP seeking to limit the LPs' budget-approval rights and other rights under the LPA, Op. 67-76, 79-80, and deferred a claim by the GP seeking declarations that it had not incurred liability for breach of fiduciary duty by reason of having filed this action, Op. 78-79. But the court concluded, incorrectly, that the LPs had miscounted their past contributions and, on that basis, granted specific performance requiring payment of approximately $97 million out of the $101 million in capital calls that the GP had issued on May 30, 2025, just minutes

[1] The trial court's Post-Trial Memorandum Opinion dated December 5, 2025, is attached as Exhibit A and cited as "Op."

before filing this action. Op. 55-56. The LPs made that payment within the time specified in the court's order and judgment.

The trial court's decision ordering payment of $97 million misinterprets the LPA in three material respects. First and most importantly, the court failed to give effect to the provisions of Amendment 20 to the LPA, which provides that the parties will be "deemed" to have made $390 million in additional contributions to the Fund. A1027-28, 1030-31 (LPA ¶¶ 21(b), 22(b)); A1024 (Cells C8, C9, D8, D9) (totaling $386,881,204.12). With those contributions counted, the LPs had already met their full $2.425 billion capital commitment, and the trial court should not have ordered specific performance of additional capital contributions. It is not disputed that Cayman law governs the LPA and that, under that law, the plain language of a contract governs its meaning, yet the trial court made no attempt to reconcile its interpretation with the plain language of Amendment 20. Op. 55-56.

Second, and independently, the trial court misunderstood the function of development milestones as a part of portfolio company budgets. These milestones serve as a check on further investment under the terms of the LPA. It is undisputed that seven of the nine portfolio companies for which specific performance was ordered failed to meet those milestones. As a result, further capital calls for those portfolio companies were not in accordance with the portfolio company budgets, which is a prerequisite for capital calls to fund portfolio companies under the LPA.

Third, and finally, the trial court failed to consider whether the GP acted in good faith *to achieve a proper purpose authorized by the LPA* when making the May 30, 2025 capital calls in the amount and at the time that those calls were made. The trial court recognized that the GP may have made capital calls for the purpose of putting negotiating pressure on the LPs—rather than solely to meet the portfolio companies' needs—but failed to consider whether that purpose was consistent with the LPA's limits on capital calls when considered in light of the GP's fiduciary duties under Cayman law.

Each of these grounds independently requires reversal of the trial court's judgment to the extent it ordered specific performance of those capital calls.

SUMMARY OF ARGUMENT

1. The trial court erred as a matter of law in its determination of the total capital contributions that the LPs made prior to the May 30, 2025 capital calls, by excluding amounts that *must* be included within the plain terms of the LPA. Op. 55-56. As the trial court recognized, all Fund assets are held in distinct investment "pools," with each pool having different investors and carry provisions. In Amendment 20 to the LPA, the parties explicitly agreed that over $390 million was "deemed" to have been distributed out from the Fund's pool ATP IV to the LPs and contributed back by the LPs to the Fund's Pool Braeburn and pool ATP V-3. A1027-28, 1030-31 (LPA ¶¶ 21(b), 22(b)).

By contractually agreeing to "deem" the amounts to be both a distribution and a contribution, the parties avoided round-tripping any actual cash while making clear that the amounts were to be treated the same as if they had been distributed to the limited partners and then contributed back. This had the advantage of avoiding the transaction cost and administrative effort of a cash transaction. The trial court erred by failing to give effect to the plain contractual text as required by governing Cayman Islands law. Op. 45-56.

It is undisputed that, prior to the May 30 capital calls, the LPs had paid at least $2.3 billion in cash contributions. Deeming the $390 million of contributions in kind to be contributions as explicitly required by Amendment 20 results in the LPs' contributions prior to the May 30 capital calls exceeding the LPs' $2.425 billion total subscription amount. As a result, *none* of the May 30 capital calls were authorized by the LPA, and the GP's claim for specific performance should have been denied in its entirety for this reason alone.

2. The trial court also erred as a matter of law in holding that "Rigmora cannot rely on the absence of milestone achievements to avoid its funding commitments." Op. 63. The LPA forbids capital calls except "in accordance with" approved budgets, A804 (LPA ¶ 5(a)(ii)(E)), and the milestone achievements were a part of those budgets. This provides a second, independent reason why the capital calls for the portfolio companies were improper.

The GP included tranched financing milestones in the investment memoranda ("IMs") it prepared for the LPs. The GP sent those IMs to the LPs as part of the budgets that it was asking the LPs to approve. The milestones in the IMs served as a control mechanism for further investment in the portfolio companies. Yet the trial court assumed that the budgets consisted solely of one-page cover sheets that identify the name of a portfolio company and a top-line dollar amount. This is contrary to the terms of the LPA. The LPA makes clear that budgets are meant to identify a specific "project" rather than a corporate entity and further makes clear—by setting up a procedure for capital calls "on a basis accelerated from that set forth in an approved Project budget" in limited circumstances—that the budget includes the schedule and conditions on which funding will be provided to that project. A804 (LPA ¶ 5(a)(ii)). In other words, "budgets" do not consist simply of a lump sum for a particular legal entity, to be paid regardless of what project or projects that entity is or is not pursuing, and regardless of any progress it may or may not be making. Rather, under the LPA, budgets include the definition of the project being funded and the basis on which funding is to be provided. That information appears only in the IMs, not on the one-page approval sheet.

It is undisputed that seven of the nine portfolio companies for which the trial court ordered specific performance failed to meet milestones that were a condition of the next tranche of funding. Accordingly, even if the LPs' $2.425 billion total commitment had not been exhausted, the May 30 capital calls for most of the portfolio companies still would have been invalid, and the trial court erred in ordering specific performance of them.

3. In addition, the trial court applied the wrong legal standard under Cayman law, and therefore erred as a matter of law, in concluding that there was "no factual basis to question ATP's good faith." Op. 59. What the LPs were actually arguing is that "the May 30 capital calls were not made in good faith *for a contractually authorized purpose*." A631 (capitalization omitted, emphasis added). The trial court initially asked the question "were the Capital Calls for contractually

specified purposes?", Op. 45, but when the court reached this argument, it failed to consider that question, Op. 56-63.

Had the court applied the proper standard, it would have had to recognize that the GP's purposes were outside what the LPA authorized it to do. As an initial matter, as discussed above, the LPA did not authorize the GP to make capital calls at all, because the LPs had contributed the entire amount of their subscriptions or, alternatively, the calls were not in accordance with approved budgets. But in addition, the evidence shows that the GP made the capital calls not based on specific needs of the portfolio companies but for tactical reasons to try to induce the LPs to bargain away their consent rights under the LPA. The trial court accepted that this may have been the case but failed to consider whether it was a proper purpose under LPA. Rather, the trial court simply stated, without considering the relevant restrictions in the LPA: "Contractual rights can be a source of pressure. That does not mean exercising them is an act of bad faith." Op. 60.

In fact, the LPA does not allow the GP to call the LPs' contingent subscriptions all at once or for just any reason. Rather, it requires that the power to call capital be exercised solely to meet the portfolio companies' funding needs under their budgets. This is consistent with Cayman law, under which a fiduciary must exercise its powers for a proper purpose and a contractual discretion "must be exercised consistently with its contractual purpose." A1669-70, ¶ 49; *British*

Telecommunications v Telefonica 02 UK [2014] UKSC 42 at [37].[2] Whatever validity the trial court's view of exercising "pressure" might have in an arm's-length relationship between two commercial counterparties, it cannot apply to a Cayman Islands Exempted Limited Partnership in which the general partner owes fiduciary duties of good faith and undivided loyalty to the limited partners, and in which the LPA specifically limits the purposes for which the GP can exercise its discretionary power to call capital.

For each of these reasons, the judgment should be reversed.

[2] Cayman courts look to English law for guidance, A1658, ¶¶ 19-20; A1391-92, ¶ 18; and in this instance, the GP's own expert cited an English-law case as providing the applicable Cayman-law standard.

STATEMENT OF FACTS

A. The Limited Partnership Agreement

The Fund was established in 2012, following discussions between Dr. Seth Harrison and Dr. Dmitry Rybolovlev, to invest in biotech companies. A144-45, ¶¶ 27-28; A296, ¶¶ 22-23. Dr. Harrison owns and controls the GP, while a trust for the family of Dr. Rybolovlev indirectly owns the LPs. A295, ¶¶ 15, 20. The Fund has been built almost exclusively with the LPs' capital. When this litigation was filed on May 30, 2025, the LPs had contributed over $2.3 billion to the Fund without counting the deemed contributions that are at issue on this appeal. A1252-76 (contributions through 2024); A301-02, ¶¶ 57, 59-61, 63 (contributions in 2025). A small additional amount had been contributed by Dr. Seth Harrison and his family trust (known as Les Pommes), but even those limited contributions were principally funded by the LPs via a loan. A61, ¶ 44; A1343, ¶ 23(c).

The Fund is governed by the First Amended and Restated Limited Partnership Agreement dated November 1, 2012, as amended (defined above as the "LPA"), A706-802, and by the Cayman Islands Exempted Limited Partnership Act (the "ELP Act"), A1793-1840. The LPA, including its 22 amendments, is governed by the ELP Act and by Cayman law more generally. A779, ¶ 18(g)(i).

The LPA was accompanied by Subscription Agreements initially committing the LPs to invest $1.425 billion, which was amended to $2.425 billion in September

2020. A296-97, ¶¶ 26, 30. Under the LPA, capital may be called up to the limit of these contingent subscriptions, but only as needed to fund the portfolio companies' budgets or to pay the Fund's expenses (or for a few other purposes not relevant here). A723-25 (¶ 5(a)); A804 (LPA ¶ 5(a)(ii)).

B. The Pool Structure and Deemed Contributions

Beginning with Amendment 13 to the LPA in 2019, the parties created investment pools within the Fund to allocate contributions and profits or losses to different groups of portfolio companies. A808-12. In September 2020, Amendment 17 to the LPA restructured the Fund's investments into three pools, A813-29, which were ultimately renamed "ATP IV," "ATP V-1" and "ATP V-2," *see* A871; A887-88, ¶ 1(b). Amendment 18 provided for a fourth and fifth pool, A872, which were later renamed "Holding Pool 1" and "Holding Pool 2," A1036. And eight months later, in June 2021, Amendment 20 created a sixth and a seventh pool, named "Pool Braeburn" and "ATP V-3." A1026; A1029.

The initial allocations of assets to Pool Braeburn and ATP V-3 came from assets previously held in pool ATP IV. Amendment 20 expressly provided that this allocation would be "deemed" both a distribution to the limited partners from ATP IV and a contribution of the same amount to Pool Braeburn and ATP V-3 respectively. A1027-28, 1030-31 (LPA ¶¶ 21(b), 22(b)).

Specifically, in regard to Pool Braeburn, paragraph 21(b) of the LPA, as added by Amendment 20, provides in relevant part:

> (i) *the Subject Limited Partner*[3] *shall be deemed to have made a capital contribution to the Partnership* solely in respect of Pool Braeburn equal to the value of the Partnership's investment in Braeburn (including the Existing BB Securities, the Deposit and the MOU) as of the date of Amendment 20 (the "Existing Value"), which Existing Value is agreed by both the General Partner and the Subject Limited Partner to be *$203,669,000*, based on an independent third-party valuation, (ii) ATP IV shall be deemed to have transferred the Existing BB Securities, the Deposit and the MOU to Pool Braeburn on the date of Amendment 20 at a price equal to the Existing Value, and (iv) on the date of Amendment 20, an amount equal to the Existing Value *shall be deemed to have been distributed* by the Partnership in respect of ATP IV to the Subject Limited Partner, Dr. Harrison and Les Pommes in respect of their Preferred Units, and on a pro rata basis thereto, as a return of capital and, accordingly, no funds will actually be transferred.

A1027-28 (emphasis added; clause (iii) absent in original). Similarly, for ATP V-3, paragraph 22(b) provides in relevant part:

> (i) *the Subject Limited Partner*, Dr. Harrison and Les Pommes *shall be deemed to have made capital contributions to the Partnership* solely in respect of ATP V-3 equal in the aggregate to the value of the Partnership's investment in the ATP V-3 Companies (including the Existing ATP V-3 Securities) as of the date of Amendment 20 (the "Existing ATP V-3 Value"), which Existing ATP V-3 Value is agreed by the General Partner, the Subject

[3] The LPA defines "Subject Limited Partner" to mean the two Rigmora LPs collectively. A1216, preamble clause (vii).

> Limited Partner, Dr. Harrison and Les Pommes to be $189,544,660, and such capital contributions shall be deemed to have been made by Ezbon, Blue Horizon,[4] Dr. Harrison and Les Pommes in the respective amounts of $97,101,127.51, $89,392,036.25, $1,436,768.54 and $1,615,727.70, immediately prior to the date of Amendment 20, (ii) ATP IV shall be deemed to have transferred the Existing ATP V-3 Securities to ATP V-3 on the date of Amendment 20 at a price equal to the Existing ATP V-3 Value, and (iv) on the date of Amendment 20, an amount equal to the Existing ATP V-3 Value *shall be deemed to have been distributed* by the Partnership in respect of ATP IV to the Subject Limited Partner, Dr. Harrison and Les Pommes in respect of their Preferred Units, and on a pro rata basis thereto, as a return of capital and, accordingly, no funds will actually be transferred.

A1030-31 (emphasis added; clause (iii) absent in original). Among other economic consequences, "deeming" the transfer of assets out of pool ATP IV to be a distribution enhanced the ability of Dr. Harrison and others in management to earn carried interest by treating the distribution the same as a cash realization event.

It is undisputed that, prior to the May 30 capital calls, the LPs had paid over $2.3 billion in cash contributions. A1470-71, ¶ 55; A1283-85 (contributions through 2024); A301-02, ¶¶ 57, 59-61, 63 (2025 contributions). Adding the $390 million that Amendment 20 deems to be additional contributions results in a total that exceeds the LPs' $2.425 billion total contingent subscription amount.

[4] Ezbon and Blue Horizon are the predecessors in interest of the two Rigmora LPs. A295, ¶ 18.

C. Portfolio Company Budgets and Milestones

The LPA not only limits capital calls to the amount of the limited partners' contingent subscriptions, A723, ¶ 5(a)(i), but also limits the purposes for which the GP may call capital. As relevant here, the LPA permits the GP to call capital only for "Projects approved by" the LPs "in writing" and "in accordance with a budget therefor approved" by the LPs. A804 (LPA ¶ 5(a)(ii)).

The GP sought the LPs' written approval for each investment by sending the LPs a budget package for each of the relevant portfolio companies. Each budget package included an IM, an evaluation of CFIUS risks, and a one-page approval form labeled "Investment/Project Approvals" setting out the total sum requested for each company. A371-72 at 32:21-33:4; A396-97 at 132:21-133:2; *see, e.g.*, A1042-1116. The IMs detailed at what juncture and for what purpose capital would be called, tying the proposed tranches of funding to specific performance milestones for each portfolio company. *See, e.g.*, A1073; A830; A836; A861-62; A1113; *see also* A1543-71, Figs. 5-11.

D. Budget Discussions Leading to the Present Dispute

By December 2023, the LPs had contributed their full $2.425 billion Contingent Subscription, including amounts paid in response to capital calls and amounts deemed to have been contributed under Amendment 20 to the LPA. A455 at 364:14-21; A1252-76. The LPs nonetheless continued to meet capital calls, A482 at 472:2-5, in an effort to preserve the value of their investments in the Fund, at least some of which continued to show promise, A454 at 360:20-361:2; A458 at 378:8-16.

From December 2024 to May 2025, the parties engaged in ongoing discussions about portfolio company budgets. *See, e.g.*, A433-34 at 280:10-281:4; A434 at 282:24-283:24; A438 at 296:7-299:8; A388-89 at 100:18-101:12. The LPs were concerned that the GP was continuing to request funding for early-stage companies that had not made progress toward offering a return on investment. A439-40 at 302:2-303:18. But the parties were exchanging proposals and seemed to be making progress toward a consensual reallocation of funds from early-stage companies to later-stage companies. A439 at 299:23-300:23; A388 at 98:21-99:2; A439 at 301:5-24; A1277-80.

Then, on May 11, 2025, the GP sent the LPs a term sheet in which the GP, for the first time, asked the LPs to agree to give the GP complete discretion to reallocate budgets between portfolio companies without any review or approval by the LPs. A1316, ¶ 3. This would have effectively stripped the LPs of their budget approval rights under the LPA. *See* A804 (LPA ¶ 5(a)(ii)); A1218-19 (LPA ¶ 26). A call to discuss the GP's reallocation proposal on May 12, 2025, quickly became heated (although the parties disagree on the reasons) and resulted in the GP withdrawing its proposal. A388-89 at 99:3-101:18; A440 at 304:24-305:20. The LPs followed up with an email on May 15, 2025, proposing to restart budget discussions but taking the position that the issue of reallocation of funds from early-stage to later-stage companies should be resolved before discussing any additional capital contributions for the later-stage companies. A1319.

E. The May 30, 2025 Capital Calls

Shortly before midnight on Friday, May 30, 2025, the GP, without warning, called over $100 million in capital for 10 portfolio companies plus certain partnership fees and expenses. A302, ¶ 64. The capital call for the portfolio company Apertor was later replaced by an amended capital call on Sunday, June 1, 2025. *Id.* ¶ 67. These calls far exceeded the forecasts that the GP had provided to the LPs and the GP's internal plans. A1280 (Cells F16, F30) (proposal shared with LPs, indicating $13.8 million to $17 million in anticipated calls through Q2 2025); A1934 (Cell K18) (internal plan indicating $22.8 million in capital calls); A1323 (Cell K18) (same for $19.5 million). Moreover, the GP had never called capital for so many portfolio companies at the same time. A482 at 472:9-21. The GP made these capital calls without consulting the portfolio companies' management, *see, e.g.*, A355-56 at 184:18-185:1, and without regard to the portfolio companies' actual needs, *see, e.g.*, A355 at 183:8-184:14, A356 at 185:2-9. For example, the capital calls included $6 million and $29.96 million, respectively, for the portfolio companies Ascidian and Marengo, A1328-33, although the GP had been consistently estimating both companies' capital needs at $0.[5] In fact, Ascidian's CEO testified that Ascidian had sufficient cash for its needs for the next year and did not need the called capital at that time. A467 at 413:1-13.

F. Proceedings in the Trial Court

Just minutes after sending the May 30 capital calls, the GP filed suit against the LPs in the Court of Chancery. A302, ¶¶ 64-65. The Complaint made no mention of the capital calls, but instead asserted five claims: (1) breach of an alleged duty to approve budgets; (2) anticipatory breach of an alleged duty to meet future capital calls based on the LPs' May 15, 2025 email, despite the fact that the LPs had met two capital calls a week later, on May 22, 2025, *id.* ¶ 63; (3) breach of an alleged implied duty to act rationally and in good faith in considering budgets; (4) a declaratory judgment or unspecified "equitable relief" determining that the LPs are "Defaulting Partner[s]" under the LPA; and (5) a declaratory judgment that the GP did not act in bad faith or engage in willful misconduct or intentional and material breach of the LPA in bringing this action. A110-21, ¶¶ 155-196. The Complaint sought declaratory relief, specific performance of unspecified future capital calls, other injunctive relief, and payment of attorneys' fees. A121-23. In a September 11,

[5] For Marengo, see A1245 (Cell H25); A1280 (Cells F7, F23); A1934 (Cell K7); A1323 (Cell K7). For Ascidian, see A1245 (Cell H26); A1280 (Cells F4, F21); A1934 (Cell K4); A1323 (Cell K4).

2025 Stipulation and Pretrial Order, the GP added a new claim for specific performance of the May 30, 2025 capital calls, which had not been included in the original Complaint although those calls had been issued shortly before the Complaint was filed. A305, ¶ 74(d). The LPs disputed each of the GP's claims. A128-226; A306, ¶ 75.

The Court of Chancery conducted a two-day trial on October 16 and 17, 2025. In post-trial briefing, the GP abandoned its claim for anticipatory repudiation of an obligation to meet future capital calls, *see, e.g.*, A551 (arguing only that the LPs breached with respect to the May 30 and June 1 capital calls), and it replaced its claim for a declaration that it could declare the LPs to be "Defaulting Partners" with a claim for a declaration that the default provisions of the LPA had not been amended (which was uncontested), A575.

Following post-trial briefing and argument, the Court of Chancery issued its opinion on December 5, 2025. The court rejected the GP's claim that Amendment 20 to the LPA had somehow implicitly increased the LPs' Contingent Subscriptions to an amount in excess of $2.85 billion and concluded, based on the text of the LPA, that the LPs' total Contingent Subscriptions remained capped at $2.425 billion. Op. 53-55.

But the trial court then went on to hold that the LPs had only contributed approximately $2.3 billion, not the approximately $2.69 billion shown by the evidence, on the basis that "the $2.69 billion figure double counts $390 million in 'deemed contributions' reallocated through Amendment 20 from Pool IV to Pool V-3 and Pool Braeburn." Op. 55. The court's reasoning, Op. 55-56, appears to rest entirely on a purposive interpretation based on the assertion that "[a]ccording [to] Rigmora, the *purpose* of Amendment 20 was to 'reallocat[e] . . . an *existing* commitment from a different pool.'" Op. 55 (first emphasis added). The trial court's opinion did not explain its basis, if any, for treating "commitment" as if it meant "contribution." *See id.* Nor did it explain how its interpretation could be squared with the plain language of Amendment 20 that "the Subject Limited Partner *shall be deemed to have made a capital contribution* to the Partnership . . . [of] $203,669,000" for Pool Braeburn, A1027-28 (LPA ¶ 21(b) (emphasis added)), and $97,101,127.51 plus $89,392,036.25 in respect of Pool ATP V-3, A1030-31 (LPA ¶ 22(b)). On the basis of its refusal to count this approximately $390 million, which the LPA said "shall be deemed" a contribution, *see* A1027, A1030 (LPA ¶¶ 21(b), 22(b)), the trial court concluded that the LPs' $2.425 billion capital commitment was not fully exhausted, Op. 55-56.

The LPs also had argued that the capital calls as to the seven early-stage portfolio companies—Initial, Apertor, Evercrisp, Red Queen, Deep Apple, Marlinspike and Aethon—were invalid as not "in accordance with" budgets because those companies had not attained the milestones contained in the IMs that formed the basis for their budget approvals. *See, e.g.*, A627-28. It was not disputed that those companies had failed to meet their milestones. A473 at 437:18-438:20; A412 at 195:11-17. The trial court, however, held that milestones were not a condition to additional funding, stating that "[o]nly two of the approved budgets contained any express milestones." Op. 62. By "approved budgets," the court apparently meant the one-page cover sheets that the LPs signed to indicate their approval, to the exclusion of the IMs, which contained the actual detail that the LPs were asked to approve. Op. 62-63. However, the trial court agreed with the LPs that the capital call for the portfolio company Replicate Bioscience was invalid, because a contingency specified in Amendment 22 to the LPA had not been met. Op. 64-65.

The LPs also raised the issue of whether the GP had made the capital calls "in good faith for a contractually authorized purpose." A631 (capitalization omitted). The trial court recognized that the GP had the burden of proof—or at least had waived the right to argue otherwise. Op. 59. The court also noted that Dr. Harrison claimed to have made the calls to fund the portfolio companies for six months. Op. 60. But in regard to evidence that the GP had made the capital calls to put pressure on the LPs, the court simply said: "Contractual rights can be a source of pressure. That does not mean exercising them is an act of bad faith." *Id.* The trial court did not analyze whether this was a purpose authorized by the LPA.

For these reasons, the trial court granted the GP's request for specific performance as to \$97 million of the \$101 million in capital calls issued on May 30 and June 1, 2025. Op. 67.

The trial court denied all of the other relief sought by the GP, including (1) the GP's claim that the LPs had a duty to consider or approve budgets rationally and in good faith, Op. 67-76; (2) the GP's request for a declaration that the LPA's default provisions had not been amended, on the ground that there was no ripe controversy on that point, Op. 79-80; and (3) the GP's claim for costs and attorneys' fees under Cayman law, Op. 80-81. The trial court deferred ruling on the GP's request for a declaration that the filing of this action fell within the "exculpatory provision" and "discretionary-action provision" of the LPA on the ground that that issue should be resolved by the Cayman courts. Op. 77-79.

The trial court entered a final order and judgment on December 11, 2025. Ex. B. Although one of the GP's declaratory judgment counts remained undecided, the court certified its judgment as final under Chancery Rule 54(b) as to the claims that it decided. *Id.* ¶ 12. The LPs filed a timely notice of appeal to this Court on January 9, 2026.

ARGUMENT

I. THE TRIAL COURT ERRED IN EXCLUDING DEEMED CONTRIBUTIONS FROM THE CALCULATION OF TOTAL CONTRIBUTIONS TO THE FUND.

A. Question Presented

Did the trial court err in concluding that "deemed contributions" under Amendment 20 to the LPA were not to be counted in calculating Appellants' total contributions? A625-66.

B. Scope of Review

The interpretation of contracts "involves legal questions and thus the standard of review is *de novo*." *Emmons v. Hartford Underwriters Ins. Co.*, 697 A.2d 742, 744 (Del. 1997).

C. Merits of Argument

1. Under Cayman Law, the Plain Terms of the LPA Govern.

The LPA is governed by the law of the Cayman Islands. A779, ¶ 18(g)(i). The parties' Cayman law experts are in agreement that, under Cayman law, the meaning of a contract is determined from its plain terms as they would have been understood by a reasonable person having the background knowledge available to the parties at the time it was executed. A1678-81, ¶¶ 59-61; A1392-93.[6] Commercial context can

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[6] Under the applicable rules, the trial court may consider any relevant source in determining foreign law, including expert testimony, whether or not admissible in evidence. D.R.E. 202(e); Ct. Ch. R. 44.1. In this case, each party submitted reports by Cayman law experts, and the parties stipulated that all experts' reports and

be considered if it sheds light on the meaning of the parties' words, but under Cayman law, pre-contractual negotiations are irrelevant, as is the parties' subsequent conduct. A1675-78 ¶ 58; A351-52 at 58:17-61:14, 62:11-63:11. Thus, to the extent that the plain words of the LPA in their context answer the question of what counts as a contribution to the Fund, there is no room to consider anything else.

2. By the Plain Terms of the LPA, the Disputed $390 Billion Must Be Counted as a Contribution to the Fund.

Amendment 20 to the LPA states that "the Subject Limited Partner [*i.e.*, the LPs] *shall be deemed to have made a capital contribution* to the Partnership [*i.e.*, the Fund] . . . [of] $203,669,000" for Pool Braeburn, A1027 (LPA ¶ 21(b)) (emphasis added), and $186,493,163.76 ($97,101,127.51 plus $89,392,036.25) for Pool ATP V-3, A1030 (LPA ¶ 22(b)). If these "deemed" contributions totaling $390,161,163.76 are counted, the LPs' contributions to the Fund prior to May 30, 2025 add up to $2,693,705,432.74. A1252-76; A1283; A1285; A301-02, ¶¶ 57, 59-61, 63. This amount far exceeds the LPs' Contingent Subscriptions, which total $2.425 billion, *see* Op. 47-55, and thus the GP's May 30 capital calls were entirely improper, *see* A723 (LPA ¶ 5(a)(i)) ("Subject to the terms of this Agreement, each of the Partners shall contribute to the capital of the Partnership, in such installments

deposition transcripts should be treated as if they constituted the experts' testimony at trial. A323-24, ¶ 123.

as the General Partner may request, an amount equal to, *but not in excess* of, the total . . . 'Contingent Subscription' . . . ." (emphasis added)). Yet the trial court refused to count those "deemed" contributions. Op. 55-56.

As a threshold matter, the GP failed to challenge the LPs' calculation of their contributions in its post-trial brief, instead relying on its argument that it was allowed to call more than the $2.425 billion in contingent subscriptions. A499-500; A547-559. It only argued on reply that deemed contributions should not be counted. A668-74. The GP, however, had the burden of proving every element of its claim, including that the LPs' Contingent Subscriptions exceeded their capital contributions, and the GP was fully on notice from the LPs' pretrial brief that this was an issue in the case. *See* A251; A273. As the trial court itself remarked in the context of a different argument, "[i]t is settled Delaware law that a party waives an argument by not including it in its brief." Op. 81 (citing *Emerald P'rs v. Berlin*, 2003 WL 21003437, at *43 (Del. Ch. Apr. 28, 2003), *aff'd*, 840 A.2d 641 (Del. 2003), and *Oxbow Carbon & Mins. Hldgs., Inc. v. Crestview-Oxbow Acq., LLC*, 202 A.3d 482, 502 n.77 (Del. 2019)). The trial court never explained why it was not applying that same settled law in this context.

In any event, even if the GP had not waived the point, the plain language of Amendment 20 deems the $390 million to be a distribution from ATP IV coupled with a contribution to ATP V-3 and Pool Braeburn. The trial court stated that "the

$2.69 billion figure [calculated by the LPs] double counts $390 million in 'deemed contributions' reallocated through Amendment 20 from Pool IV to Pool V-3 and Pool Braeburn." Op. 55. But the trial court never explained how its conclusion could be reconciled with the plain words of Amendment 20, which say that the LPs "shall be *deemed* to have made a capital contribution to the [Fund]" of $390 million, A1027-28, 1030-31 (LPA ¶¶ 21(b), 22(b)) (emphasis added)—in other words, shall be *treated* as if they had made those contributions, *see, e.g.*, *Deemed*, OSBORN'S CONCISE LAW DICTIONARY (12th ed. 2013) ("To be treated as."); *Deem*, BLACK'S LAW DICTIONARY (12th ed. 2024) ("To treat (something) as if (1) it were really something else, or (2) it has qualities that it does not have."). Nor did the trial court explain what it believed those contractual words could possibly mean if they were not to be given their obvious meaning.

The trial court's only explanation for its refusal to give effect to the LPA's plain words was its claim that, "[a]ccording [to] Rigmora, the *purpose* of Amendment 20 was to 'reallocat[e] . . . an *existing* commitment from a different pool.'" Op. 55 (first emphasis added). To be sure, the overall purpose of a contract can be relevant to understanding its meaning, particularly where the words are ambiguous or unclear, A1679-80, ¶ 60(1)-(2), (4), but ultimately, the plain meaning of the text of the contract in its context is controlling. *See Arnold v Britton* [2015] UKSC 36 at [18] ("the clearer the natural meaning" of a contract, "the more difficult it is to justify departing from it"); *id.* at [15] ("When interpreting a written contract, the court is concerned to identify the intention of the parties by . . . focussing on the meaning of the relevant words . . . ."). While one of the purposes of Amendment 20 may have been to reallocate commitments among pools, Amendment 20 also made a number of other changes to the LPA, including changes to the provisions governing carried interest, expense payments and distributions from the pools. *See, e.g.*, A1028 (LPA ¶ 21(d)); A1032-33 (LPA ¶ 23); A1035-36, ¶ 7; A1034 (LPA ¶ 20(e)); A1036-37 (LPA ¶ 25); A1037, ¶ 10. So it is clear that whatever the overall purpose of Amendment 20, that purpose was not inconsistent with making other adjustments to the LPA.

Remarkably, although the trial court interpreted Amendment 20 in reliance on the amendment's supposed purpose to reallocate commitments, Op. 55, the trial court did not even conclude that that *was* the purpose of Amendment 20. Rather, it attributed this view of Amendment 20's purpose to the LPs alone without appearing to endorse it. Op. 55-56. But again, the LPA is to be interpreted in accordance with its plain meaning. The interpretation cannot be based on a view that the trial court attributed to one party. *Arnold v Britton* [2015] UKSC 36 at [15] (meaning "has to be assessed . . . disregarding subjective evidence of any party's intentions.").

Moreover, the trial court's characterization of the LPs' position is incorrect, because it confuses "contributions" with "commitments." In response to an argument by the GP that Amendment 20 somehow implicitly increased the LPs' capital *commitments*, the LPs had argued that the portions of Amendment 20 on which the GP relied were adopted to reallocate existing capital commitments among pools, not to create new capital commitments. A261. But the reallocation among pools of existing commitments to make future contributions says nothing about how to count past and present contributions to the Fund. Thus, the trial court's statement about reallocation of "commitments" has no logical connection with its conclusion about whether to count deemed "contributions."

In any event, even if the purpose of Amendment 20 had been to reallocate *contributions* among pools, the plain words of Amendment 20 are fully compatible with that purpose. There are at least two equally effective ways to accomplish a reallocation of contributions. One way would be to move assets directly from one pool to another without any new distributions or contributions. The other would be to distribute the assets as investment return to the limited partners, and then have the limited partners contribute the same amount back—or to deem that that distribution and contribution had taken place. By its express words, the LPA unambiguously follows the latter approach. The LPA provides both that the stated amounts "*shall be deemed to have been distributed* by the Partnership in respect of ATP IV" and that the limited partners "*shall be deemed to have made a capital contribution* to the Partnership" in respect of ATP V-3 and Pool Braeburn in the same amounts. A1027-

28, 1030-31 (LPA ¶¶ 21(b), 22(b)) (emphasis added). This treatment had economic consequences for the parties in that it affected not only the LPs' contributions toward their contingent subscriptions but also the potential realization of the carried interests of Dr. Harrison and other members of management.

That is the structure that the parties agreed to. As a matter of Cayman law, their agreement must be enforced as written. The parties agreed that the $390 million would be taken as a distribution of the amount that they had previously invested and then invested anew as capital contributions. That new reinvestment of the distributed amount was, by the express terms of Amendment 20, deemed to be a contribution to the Fund no less than any other contribution to the Fund. Because the amount distributed out of the Fund was equal to the amount contributed into the Fund, Amendment 20 provided that "no funds will actually be transferred," avoiding the unnecessary expense and effort of round-tripping funds to the limited partners and back to the Fund. A1027-28, 1030-31 (LPA ¶¶ 21(b), 22(b)). Instead, it "deemed" that the distribution and contribution had both taken place. *Id.*

In case there was any doubt that the parties' agreement means what it says, the agreed treatment is illustrated in Annex A to Amendment 20. A979-1001. Annex A is incorporated by reference by paragraph 13 of Amendment 20 and forms part of the amendment. A1038, ¶ 13. Annex A shows that the agreed values of the assets that were transferred from pool ATP IV to Pool Braeburn and ATP V-3 were to be treated as both distributions from the Fund from ATP IV and new capital contributions to Pool Braeburn and ATP V-3. *See* A982-83 (Cells F33, L39). That is not surprising, because that is exactly what Amendment 20 says.

Although the parties' subsequent conduct cannot alter the meaning of a contract under Cayman law, it is worth noting that the GP has routinely counted Amendment 20's deemed distributions and deemed contributions in every other context. For example, the GP has counted the $393.21 million deemed distributions from pool ATP IV under Amendment 20 toward the high-water mark that would trigger its founder Dr. Harrison's carry, A1024 (Cells F8, F9), and it has counted Dr. Harrison's and his family trust's own "deemed" contributions to pool ATP V-3 under Amendment 20 toward their capital contributions, A1025 (Cell K37); A1790 (Cells E9, L9); A1792 (Cells E9, L9). The GP cannot justify counting the deemed contributions and distributions only when they benefit Dr. Harrison or his family trust and not when they benefit the Rigmora LPs.

In sum, the plain terms of the LPA required the trial court to count the deemed contributions, but the trial court failed to do so. Because those contributions must be counted, the LPs' contingent subscriptions were completely fulfilled before the May 30, 2025 capital calls, and the LPs had no obligation to meet any further capital calls. The trial court's grant of specific performance of the capital calls should therefore be reversed in its entirety.

II. THE TRIAL COURT ERRED IN CONCLUDING RIGMORA'S CONTRIBUTION OBLIGATIONS ARE NOT CONTINGENT ON PORTFOLIO COMPANY MILESTONES.

A. Question Presented

Did the trial court err in concluding that "Rigmora cannot rely on the absence of milestone achievements to avoid its funding commitments"? A533-36.

B. Scope of Review

The interpretation of contracts "involves legal questions and thus the standard of review is *de novo*." *Emmons*, 697 A.2d at 744.

C. Merits of Argument

The trial court's refusal to count deemed contributions, *see supra* Section I, is sufficient to reverse the trial court's judgment of specific performance. If this Court reverses the trial court on that point, it need not reach the remaining issues. But the trial court's judgment was erroneous for another reason: the May 30, 2025 capital calls for seven early-stage companies were not "in accordance with" the companies' budgets as required by the LPA, A804 (LPA ¶ 5(a)(ii)), because it is undisputed that those companies had not achieved the development milestones that would unlock the next tranche of funding under each of their budgets, A473 at 437:21-22; A412 at 195:11-17.

The trial court accepted the GP's argument that the milestones were not really part of the "budget" because they appeared in documents labeled "Investment

Memorandum" rather than in the accompanying one-page form labeled "Investment/Project Approval." *See* Op. 7-8. But there was no reason to limit the meaning of "budget," as that term is used in the LPA, to just the bottom-line figure on the cover page. The IMs were part of the budget package that was sent to the LPs for approval. Op. 7. As some of the IMs emphasize, milestone-based funding "mitigates investment risk," A918, because a "tranche-based financial scheme provides a rational path to investment based on clear milestone definition and clear go/no go decision points," A1120. Dr. Michael Ehlers, former Chief Scientific Officer at the GP, testified that milestones are essential for investors and biotech start-ups because they focus management on "things that really matter in terms of value as defined by the investors." A465 at 403:20-404:2. As the LPs' expert Dr. Ilonna Rimm confirmed, conditioning funding on progress milestones mitigates the risk to investors in early-stage biotech companies, which is critical because most biotech start-ups fail before using up the entire amount of their budget. A472 at 431:1-432:12, 434:2-20; A1511-12, 1538, ¶¶ 12, 63.

The plain text of the LPA forecloses the trial court's narrow focus on the one-page cover sheet in disregard of the IM. This is demonstrated by paragraph 5(a)(ii) of the LPA, which permits capital calls "on a basis accelerated from that set forth in an approved Project budget" under limited conditions. A804 (LPA ¶ 5(a)(ii)). The reference to "accelerated" calls would be meaningless if "approved Project budget" meant only the top-line number listed on the one-page approvals form and excluded the IMs, which are the only documents shared during the budget approval process that provided a timeline and conditions for funding.

The trial court relied on the investment/project approval document for Replicate from February 11, 2025, A1247, as an example of how the parties could have provided for milestones outside the IM if they had wanted to. Op. 9. But the Replicate approval was a negotiated agreement entered into after the parties' relationship had become contentious; it was agreed many years after the initial budget and the corresponding IM had been sent, *compare* A1247 (approval dated Feb. 11, 2025), *with* A929-72 (initial budget and IM shared Jan. 14, 2021); and it only includes a single progress-based funding condition, namely the closing of a deal for a rabies vaccine, A1247, which was not included as a milestone in the IM, A962. Thus, if relevant at all, the Replicate example shows that the parties recognized they only needed to add milestones to the approval document if that document departed from the IM, as it did for Replicate, and that they otherwise regarded the milestones in the IM as binding. Moreover, as the trial court itself acknowledged, the "milestone" in the Replicate document is a far cry from the detailed milestones included in every portfolio company's IMs. Op. 9 (describing it as a "corporate" milestone). Thus, the trial court erred in treating the Replicate document as any kind of indication that, in the many earlier budgets agreed by the parties under the LPA, the milestones in the IMs were not conditions to further funding.[7]

Other LPA provisions also demonstrate that the IMs should be treated as part of the budget. For example, the LPA permits the GP to call capital for a portfolio company "to enable the [Fund] . . . to . . . invest in Projects approved by the [LPs] in writing." A804 (LPA ¶ 5(a)(ii)). But only the IM sets out the "project" that the LPA dictates must be the subject of a budget. The one-page form does not describe a project but contains only a company name. *See, e.g.*, A1091; A1144; A1188. Thus, the project identification on the one-page form only makes sense if it is treated as standing for the fuller description set forth in the IM. Treating the bare forms as the entire "budget," as the trial court did, would produce absurd results, because this would permit the GP to call tens of millions in capital for a portfolio company regardless of whether it is making any progress or has pivoted to some other industry entirely.

[7] The trial court also cited testimony by Dr. Harrison referring generally to contractual "milestones" for a second portfolio company, but Dr. Harrison's testimony made clear he was talking about the Braeburn Royalty Purchase Agreement, and *not* about a budget approval under the terms of the LPA. *See* A372 at 33:15-34:5. Thus, that testimony also is irrelevant to whether the parties regarded the IMs as setting conditions for project budgets. The Royalty Purchase Agreement itself has not been introduced into evidence in this case.

By the plain terms of the LPA, the GP could only call capital in accordance with approved budgets. For the seven early-stage companies, it failed to do so because it called capital for companies whose milestones were not satisfied. Accordingly, unless the order of specific performance is reversed in its entirety as discussed in Part I above, the order of specific performance of the capital calls should be reversed to the extent it relates to those seven companies, totaling $47.8 million. *See* Op. 36.

III. THE TRIAL COURT APPLIED THE WRONG LEGAL STANDARD AND THEREBY ERRED IN CONCLUDING THAT THE CAPITAL CALLS WERE MADE IN GOOD FAITH FOR A PROPER PURPOSE.

A. Question Presented

Did the trial court err in concluding that the GP acted in good faith in calling capital without considering whether the capital calls were made for a proper purpose under the LPA and applicable Cayman law? A533-36.

B. Scope of Review

"A claim that the trial court employed an incorrect legal standard . . . raises a question of law that this Court reviews *de novo*." *MCA, Inc. v. Matsushita Elec. Indus. Co.*, 785 A.2d 625, 638 (Del. 2001).

C. Merits of Argument

In addition to the reasons discussed above, the capital calls are invalid for the further reason that they were not made in good faith for a proper purpose. While recognizing that the GP did not contest that it had the burden of proof on that issue, *see* Op. 59, the trial court never held the GP to that burden, instead focusing on whether the LPs had established a basis for concluding that the GP acted in bad faith, *see* Op. 61. Moreover, the trial court ignored the actual issue before it, which was—as stated in the LPs' post-trial brief—whether the GP proved it had "call[ed] capital only for a purpose enumerated in paragraph 5(a)(ii)" and thus "complied with [its] obligation under the LPA to call capital 'solely' to invest in the portfolio companies." A631; A634; *see also* A268; A272-73. The trial court ignored this issue even though it had recognized, at an earlier point in its opinion, that the LPs had put at issue whether the capital calls were "for contractually specified purposes." Op. 45. Instead, the trial court only considered good faith in the abstract, limiting itself to the question of whether there was evidence that the GP acted in bad faith. Op. 58-61. That is the wrong question. The Court failed to consider whether the GP had acted "solely" for a purpose authorized by the LPA rather than an improper collateral purpose such as to pressure the LPs to give up their contractual rights under the LPA. Had the trial court asked itself the right question, it would have concluded that the GP did not meet the standard it was required to prove under the LPA and Cayman law.

The need to exercise a fiduciary power for a proper purpose is central to Cayman fiduciary law and the manner in which the GP is required to exercise its powers, including the power to call capital. The GP's own Cayman law expert testified that, under Cayman law, a contractual discretion "must be exercised consistently with its contractual purpose." A1407, ¶ 49 (citing *British Telecommunications v Telefonica 02 UK* [2014] UKSC 42 at [37]); *see also* A1761-62, ¶ 26(d). This requirement "is concerned with abuse of power, by doing acts which are within [the power's] scope but done for an improper reason." *Eclairs Group Ltd v JKX Oil & Gas Plc* [2015] UKSC 71 at [15]. This issue most often comes into play in the context of a "a battle for control of the company," where courts will examine whether a fiduciary exercised a power for an improper collateral motive—such as to favor one side over the other in the dispute—rather than for the purpose for which the power was established. *Id.* at [37]. In regard to this limitation, the GP's own Cayman law expert freely conceded that the GP cannot make a capital call "simply because budgets have been approved," but must exercise power "rationally and in good faith" and must "ensure that it does not exercise [its power to call capital] in furtherance of interests of its own which conflict with those [of] the Partnership." A1422, ¶ 83; *see also* A353 at 155:6-10.

The trial court credited Dr. Harrison's testimony that he had called capital to fund the portfolio companies. Op. 35 & n.210. But the trial court failed to ask and answer the right legal question, namely whether this was the GP's sole *purpose* for calling capital, including as reflected in the *amounts* of capital called and the *timing* of the capital calls. It is not enough that (as the trial court seemed to believe) Dr. Harrison intended that he would ultimately invest the funds in the portfolio companies. As the LPs pointed out in their post-trial briefing, but the trial court failed to address:

- The capital calls were made in the context of Dr. Harrison's demand that the LPs agree to give him broad discretion to reallocate budgets, thereby relinquishing their approval rights under the LPA, A1316, and a separate demand to transfer their interests in certain portfolio companies to the GP for no consideration, A1325.

- The amounts that the GP actually called represented a [redacted] *Compare* A1934 (Cell K18), *and* A1323 (Cell K18), *with* A302, ¶ 66. Indeed, Dr. Harrison directed [redacted] A1321. But Dr. Harrison [redacted] A402 at 153:7-9.
- The GP apparently did not consult or even notify the portfolio companies for which he claimed the funds were needed. The CFO of one of those companies, Ascidian, testified that the company had not requested and did not need the capital. A467 at 413:1-13. Indeed, the GP had previously identified the required amount for Ascidian—as well as another portfolio company, Marengo—as $0. *See supra* note 5.
- Dr. Harrison was bizarrely secretive about the new capital calls, [redacted] A359-60 at 165:9-170:13.

- [redacted] A1921 [redacted]
- This purpose is corroborated by the GP's own internal documents, which indicate that the GP may have never actually intended to distribute the capital calls to the portfolio companies for which it was ostensibly making the calls. Rather, [redacted] A1929 [redacted]
- The GP's general counsel confirmed that the GP had been deliberately waiting until this suit was ready to file before it sent out the capital calls. A363 at 19:3-10 (ATP "intended to delay the capital calls until after filing suit"). The GP sent out its capital calls and filed its complaint in the trial court essentially simultaneously, shortly before midnight on a Friday. A302, ¶¶ 64-65. Had the GP been making capital calls solely to meet ordinary capital needs of the portfolio companies under their budgets, there would have been no need to coordinate them with the filing of this lawsuit.

The LPs presented all of this evidence and more to the trial court, discussing it in great detail in its post-trial brief, A519; A537-40, yet the trial court failed to meaningfully address it. Instead, the trial court misstated that the LP's argument rested entirely on "a single line in a single email among outside counsel," *i.e.*, [redacted] Op. 60-61. As for the rest of the mountain of evidence showing that the GP had demonstrated a pattern of acting for an improper purpose, the trial court dismissed it as a "grab-bag of other arguments," treating it as if it were a series of discrete legal points without weighing what the evidence, considered in the aggregate, said about the GP's purpose. Op. 60-61.

The reason the trial court failed to grasp the significance of this evidence was that it misunderstood the legal principle at stake. The trial court remarked that the email it focused on in isolation was "not alarming" because "[c]ontractual rights can be a source of pressure." Op. 60. But the trial court failed to consider that the GP must exercise its power to call capital in good faith in accordance with its fiduciary duties and in accordance with the purpose for which that power was created in the LPA. The Cayman courts have held that a general partner of an exempted limited partnership has a duty to act solely in the interests of the limited partners. A1841-1919, *Kuwait Ports Authority v Port Link GP Ltd* [2023] 1 CILR 50 at [34(iii)]; A1807, ELP Act § 19(1) ("A general partner shall act at all times in good faith and

. . . in the interests of the exempted limited partnership."); *Aquapoint LP v Xiaohu Fan* [2025] UKPC 56 at [88] (stating that ELP Act § 19(1) "is directed to the fiduciary duty owed by a general partner to the ELP, that is, the partners as a whole, rather than to any individual partner in respect of assurances given to that partner personally"). Even the GP's own Cayman law expert recognized that the GP had to act for a proper purpose and not in its own self-interest, including when calling capital. A1407, ¶ 49; A1422, ¶ 83.

Had the trial court applied the proper legal standard, it would have (or at least could have) concluded that the GP had not sustained its burden of showing that it had exercised its power to call capital in good faith for proper purpose—that is, in good faith for the sole purpose of funding the relevant projects as authorized by the LPA. Because the trial court failed to consider the LPA's and Cayman law's limitations on the exercise of the GP's powers, its judgment for specific performance should be reversed.

CONCLUSION

For each of these reasons, the May 30, 2025 capital calls were inconsistent with the requirements of the LPA in their entirety. The judgment of the Court of Chancery should accordingly be reversed to the extent it required payment of those capital calls, and the Appellees' claim for specific performance should be denied. In the alternative, the judgment should be vacated as to the award of specific performance and the case remanded with instructions for the trial court to apply the correct legal standard.

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